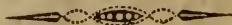


A
PRACTICAL TREATISE
ON THE
Law of Tolls & Customs,
AS WELL THOSE PAYABLE IN
THE CITY OF DUBLIN,
AS IN EVERY
CITY, CORPORATE TOWN, FAIR AND MARKET
IN
IRELAND.

ENABLING THE
Farmer, Merchant, Factor, Citizen, Dealer, Carman, &c.
to detect any Imposition which may be attempted.



TO WHICH IS ADDED,

AN APPENDIX,

COMPRISING ALL

The Acts of Parliament

ON THIS VERY IMPORTANT SUBJECT ;

SEVERAL ADJUDGED CASES—VARIOUS RESOLUTIONS OF THE
IRISH HOUSE OF COMMONS ;

AND A COPY OF

THE DOCKET OF THE TOLLS
CLAIMED BY THE CITY OF DUBLIN.



COMPILED BY

JOHN CANTWELL,

ATTORNEY AT LAW.



Dublin :

PRINTED BY JOHN BARLOW, 26, BOLTON-STREET.



1817.



352.1
C16p



P R E F A C E.



THE chief matter contained in the following pages, has been already published in *Carrick's Morning Post*, in a Series of Letters addressed to the Editor of that Print, which, for spirited Independence, steady Adherence to liberal Principles, and the Talent with which it is so ably conducted, is not excelled by any other in the kingdom.

The Author has been informed that numerous applications have been made at the Office of that Paper for the particular Numbers in which his Letters appeared; they are, however, not now to be had. A re-publication of the whole Series was requested by many persons; this the Editor declined, as it would interfere too much with his general arrangements, and by taking up the place of new matter, be an infringement upon Subscribers and others who have kept the original Numbers.

A re-publication through the same channel being thus impracticable, the Author, anxious to serve the Public, who are all more or less interested in the abolition of vexatious, oppressive and illegal exactions,

exactions, now offers to the Public, in the shape of a Pamphlet, the whole of the Information which his Letters contained.

By throwing the subject into a regular form he has avoided repetitions ; and where the subject required it, he has added fresh matter and some additional facts and illustrations, so as to place the complete knowledge of the subject of Tolls and Customs, and even the Laws relating to Tolls and Customs, within the reach of every Individual in the Country:

If any portion of the Public may be hereafter imposed upon, by suffering the exaction of illegal demands, it must be their own fault.

It is matter of peculiar gratification to the Author, that his labour has not been undertaken in vain. Much good has already flowed from the Letters. The present Publication, he hopes, will finish what has been so happily begun.

Dublin, June 1817.

A TREATISE
ON
TOLLS & CUSTOMS,

&c. &c. &c.

CHAPTER I.

I SHALL not enter into any History of the nature of Tolls and Customs, but confine myself principally to the Abuses now so extensively practised in this City, and also in the different Fairs and Corporate Towns throughout Ireland.

In Cork, Waterford, Belfast, Tuam and Wexford, the People resisted, with success, the claims made on them under pretence of Tolls; and at Naas, the impositions were annihilated at once, as must be fresh in the Public recollection.

In Dublin, when actions for extortion have been brought against the Corporation and the Toll-Farmers, who rent the Tolls under the Corporation, they have never contested the matter at Law, but suffered judgment to go by default, in order to avoid the publicity of a trial. For the Judges are so hostile to extortions, from the knowledge both of their illegality and their injurious effect upon the moral habits of the People, that the Toll-Farmers would pay any amount in costs, sooner than let the opinion of the Bench come before the Public, aware what influence it must have on the People to hear the Judges declaring what exactions are illegal, and that the People may resist such demands as are contrary to Law.

About

About 26 years ago, a gentleman in the town of Banbridge near Belfast, by one determined exertion, put an end to that illegal practice of swearing persons leaving the Fair. He went to a neighbouring Magistrate to lodge examinations against the Tollman for tendering the oath to him. The Magistrate at first refused to take his information, whereupon the gentleman spiritedly told the Magistrate, that he would apply to the Court of King's Bench against him, for his having refused to take the information. This intimidated the Magistrate, he did his duty, took the examinations, and ever since no attempt has been made in Banbridge to swear any person.

It is to be hoped that the gentlemen through the Country will follow this example, and put down the practice of swearing at Fairs—it is subversive of the People's morals, and totally destroys any reverence for an oath in those persons who are often sworn, leaving them liable to be perjured upon great as well as upon small occasions.

The practice of swearing persons at the different Toll-houses was also very general in Dublin, but has been nearly put a stop to, so that it is unnecessary here to say more upon it, than just to apprize the Dublin and Country Tollmen, and also the Public, that the Tollman who dares to administer such, or any oath, is under the Act of Parliament, 27. Geo. III. c. 15. s. 6. (made perpetual by 40. Geo. III. c. 96. s. 5.) liable to be prosecuted—the punishment is transportation for life; also the person to whom the oath is tendered, and who takes it, however ignorantly, is liable to transportation for seven years.

As many persons are ignorant of the nature and reason of swearing in Fairs, I shall explain it: By Law, Cattle are not liable to toll except sold; yet in nearly all the Fairs through Ireland, a charge for Toll is made upon Cattle going into these Fairs, and a further charge is made upon the Cattle coming out, *if sold*. To ascertain, therefore, whether the Cattle have been sold or not, the Tollmen take upon them to tender an oath to those persons who assert that the Cattle which they are then driving out of the Fair have not been sold. Many of the Tollmen who know the illegality of their conduct in tendering this oath, strive to evade the penalties in the following manner:—They throw the book upon the ground, the owner or driver of the Cattle then swears. The Tollmen affect to consider such oath as voluntary on the part of the person who swears,
and

and that they then are not liable to the penalties attached to the offence of tendering unlawful oaths. This, however, is not the fact ; they do not thereby screen themselves ; for upon reading the Act of Parliament of 27. Geo. III. c. 15. s. 6. (in the Appendix,) it will be seen, the Act expressly guards against any such subterfuge or evasion ; for it enacts, “ That any person not duly qualified by Law to administer oaths, who shall administer, or cause to be administered, or tender or cause to be tendered to, or by threats, promises, persuasion, or *other under-means, cause, induce, or procure to be taken*, by any person or persons, any unlawful oath, or solemn engagement, *upon a book or otherwise*, and being by due course of Law thereof convicted, shall be adjudged guilty of felony, and may be transported for life.”

This Act clearly shews, that the Tollmen cannot by any contrivance, evade the penalties.

In Dublin the Tollmen were in the habit of swearing persons as to the lading on their cars.—In James’s-street Toll-house, they used to swear the men who bring up the Bacon in cars to Spitalfield’s market, as to the number of fitches on the car. This exposes the Tollmen to the penalties of administering unlawful oaths, under that Act of Parliament.

The Tolls and Market dues in this City have been for many years regularly increasing, but latterly have passed all bounds, Toll being charged to a great amount, when from the nature of the goods it was evident none could be payable, such as upon Furniture, Porter, Flax-seed, Cotton, &c. &c. ; and Toll has been charged three times over for the same goods upon one sale.

An ordinary consideration of the matter contained in this Treatise, will satisfy any person that Toll is not payable in one case out of twenty where now charged. The articles exempt from Toll are very numerous—some, because not liable by Law to pay Toll, viz. Provisions, &c. Many are exempt by particular Acts of Parliament, Linen, Flax, &c. ; and others in respect of the privilege of the party as being a Clergyman, a Freeman, a Tenant in ancient Demesne, or the goods being for private use, or brought *for* private use.—All Furniture is exempt from Toll, although hitherto charged both going out and coming in ; besides which, there may be many other causes for exemption ; for these cases of exemption here instanced,

legal

legal authorities are given in the body of the Work, or referred to in the Appendix.

Many persons erroneously conceived that the Tollmen were armed with an authority which they would not be safe in resisting ; but did they know that they might force their way, and would be justified in knocking down the Tollmen and driving over them, few would submit.—This idea of the Tollmen's authority was industriously kept up by them in order to impress the People with a dread of resisting on the spot, for they well knew that the People, when once the Toll was paid, would never trouble themselves more about it.

Persons who bring up the Mountain Cattle to Dublin for sale, declare that they have frequently paid Toll twenty times over for the same Cattle before they were sold ; although by Act of IV. Anne, c. 8. s. 3. they are not liable to pay until after they had been sold.

Toll to a great amount is still charged in Dublin upon goods for private use, both coming into the City and going out, which is contrary to Law ; nay more, it is also contrary to the very terms under which the Tolls are set to the present Tenants, who were publicly informed at the setting, " That all goods for private use in and out, were free from Toll."

The late decisions, and the complaints which have been lodged in the Police Offices against the Toll gatherers, for their extortion and misconduct, have, in a great measure, intimidated them, they find the Magistrates anxious and determined to punish every act of extortion which is brought before them.

A few months ago they would beat whoever dared to dispute paying whatever they demanded ; and the People, as above-mentioned, imagined that the Tollmen must have had some authority ; but now they find the conduct of the Tollmen is quite illegal, and that themselves are at liberty to resist, by force, in case of an illegal demand for Toll. Much, however, remains to be done in removing both the exaction itself, and the outrageous manner of enforcing it ; and one object of this Publication is, to render the subject so intelligible to all persons, that the present extortions shall not be suffered to recur at a future day. For originally they were submitted to from ignorance, and at last, became a settled imposition.

CHAPTER II.

BY the Act of Parliament, 4th of Anne, c. 8. all Toll is done away upon Goods, Cattle, or Merchandise carried into or through any City, Town or Place, where the same shall not be sold, consumed or slaughtered. This Act thus removed all Toll through; and by section 3d of the same Act, Cattle unsold all over the Kingdom, are to be carried out of any Fair or Market without paying any Toll.—This Act of Parliament frees from Toll all goods not *sold, consumed or slaughtered* in this City, or in any City or Place where Toll is claimed; and therefore, by its operation, no Corn, Cattle, Cows, Pigs, Butter or goods brought to Dublin for the purpose of exporting, are liable to Toll, which is of great importance to the persons engaged in exporting. Under this Act there is a penalty of 10s. for the first offence, and for the second, and every other offence, a penalty of 5l. This Act, if put in force, would nearly remove all exactions, for a great part of the goods now brought to Dublin, would, by its operation, be free from Toll.

Lately Coals imported by a gentleman in the County of Louth, were charged Toll in passing through the town of Dundalk. This was illegal, as all Toll thorough, is, by said Act of Anne, c. 8. done away.

All goods coming to Kevin-street markets, which are in the Liberty, though passing through the City, are by said Act, 4th Anne, c. 8. as well as the Act 25th, H. VI. c. 3, free from Toll at any Toll-house, either in or out.—Several persons latterly do not pay Toll for the goods of any kind brought to Kevin-street market, neither for Potatoes, Bacon, Fowl, Butter, Corn, Meal, Flour, Charcoal, Hay nor Straw, a great quantity of which now comes to that market.

The Act, 25th H. VI. c. 3. appoints where Toll is to be taken—viz. *within the City*, and gives a penalty of 20s. for each penny illegally taken for Toll. If this penalty were enforced, it would, in many cases, amount to an immense sum—the consequence to the Corporation must be total ruin. It is therefore surprising that the City permits exactions, when liable to so heavy a responsibility.

By the Act, 3d. Ed. I. c. 31. the extortions, which are the subject of this Treatise, amount to the forfeiture of the right of Tolls; so that it appears, from an authority in Viner's Ab. that the City, by their misconduct of the Toll-gatherers, have lost altogether the right of Toll.

"Goods for private use," are exempt from Toll, by the words of the Docket.—Their meaning and operation appears plain and easily comprehended, but they are more beneficial to the Public than at first appears; they not only express, that goods coming in for private use shall be exempt—but they further mean, as has been decided, "*Of things bought by any for his own private use, no Toll shall be paid. Viner's Ab. Tit. Toll cites 28. Ass. 50. Br. Toll, pl. cites S. C. p. Thorp, Green and Seton for Law.*" So that a person buying in the market, Corn, Cattle, &c. for his own use, such shall be exempt from Custom; and this is a further proof that Toll should not be taken before the sale, for until the goods be sold it is impossible to know whether they shall be bought for public or for private use.

Corn sold by sample is not liable to Toll.—"*Toll is only payable upon goods sold in market.*" For if the goods are not actually in the market, and there sold, they are not liable to Toll, which may be then instanced. A dealer who has a large quantity of Corn, &c. to sell, brings it to Dublin, and stores it in or near the City; he takes a sample, and going to the Corn market, sells *by sample*—this is not liable to Toll, either on the part of the buyer or the seller, for it has been determined, "*That goods sold by sample are not liable to Toll.*" This will appear in a case lately decided, *Moseley v. Pierson*, 4 Durnford and East, 104.—See Appendix.

The Judges' opinion in this case, and the arguments of the Lawyers on both sides, clearly shew that goods sold by sample were not liable to Toll, in as much as the goods must be actually in the market ready to be delivered to the purchaser; and this flows from the circumstance, that Toll is always payable by the buyers and not by the seller, and then only on the actual delivery of the goods. Now if the goods are not actually in the market at the time of sale, they cannot be delivered; yet Toll is charged in Dublin upon Corn *sold by sample*; and further, if the person who buys this Corn, &c. so sold by sample, lives outside the City, a further exaction was, until lately, made; Toll was charged *again* upon the going out.

out.—And should the mills where the buyer has his Corn ground be so placed, as that the Corn must pass through the City on its way to the mills, Toll was again demanded. This last charge was insisted on by the Toll-gatherers as pertinaciously as the first Toll, although all Toll, on goods passing through, is abolished by the 4th Anne, c. 8.

The demand of Toll upon Corn, &c. *going out*, has recommenced within these two years: however it is nearly abolished, as many now refuse to pay it, and those who pay, do it through ignorance. Many instances have occurred of loss far beyond the mere value of the Toll to the persons who have their goods delayed at the Toll-houses, disputing about this last-mentioned imposition of Toll upon goods going out. On the ignorant country-people the imposition now falls heavily, for the well-informed refuse to pay.

The claim of Toll upon Corn sold by sample, is now generally resisted, and will soon be done away.—Also, Corn intended for importation, by said Act, 4th Anne, c. 8. free from Toll, even though it should be warehoused in the City of Dublin.

Toll is only payable upon Corn in the market and upon market days; yet Toll is charged in all places and on all days, when coming into the City of Dublin; and until lately, Toll was again charged upon the Corn going out.

In enumerating the things not tollable, it would appear scarcely necessary to notice the goods of Freemen; however the fact is, that the imposition extended even to the Freemen. A Freeman of the City of Dublin is, by the Charter of King John, and the subsequent Charters, (from which I shall give extracts,) free from all Customs, Tolls, &c. &c. through this City, the Kingdom of Ireland, and all his Majesty's Dominions; and also from passing Ferries, Bridges, &c. This appears from the Charters themselves, and is confirmed by a recent decision, on an appeal to the House of Lords on the subject of Tolls.—The Freemen nevertheless were charged Toll, and when they claimed the exemption, were told “They were free from Custom, but not from Toll.” The imposition on the Freemen when Corn was high, came to above 1000l. a year, for the Freemen were led into the idea that they were only free from Toll upon the goods for their own private use, but should pay for the goods which they brought to market. This is not the fact, for “Freemen of Dublin
are

are free from all Toll, &c. &c. upon all their goods, and in all parts of his Majesty's Dominions.

As the Docket-sheet of the Tolls contains these words; "N. B. All goods coming in for private use to be exempted from Custom." If a Freeman should pay for all goods except those for his own private use, he would have no privilege above others. Now the Charter evidently meant to give him a valuable privilege in his exemption from Toll, and but for his own remissness he would have had it unrestricted.

The first Charter granted was by King Henry II. which is very short, and does not bear upon this part of the subject, I therefore shall not give any extract from it. The next Charter was granted by King John, in the 3d year of his Reign, from which the following is an extract:

CHARTER OF JOHN, LORD
OF IRELAND.

And that they (Freemen) shall be quit from Toll, and Lastage, and Passage, and Pontage, and all other Customs through the whole Land and Realm.

CHARTA JOHANNIS DOM.
HIB.

Et quod sint quieti de Theolonio et Lastagio, et Passagio, et Pontagio, et de omnibus aliis Consuetudinibus per totam terram et potestatem meam.

Another Charter was granted by King Edward in the 8th year of his Reign, from which the following is an extract:—

EDWARD, &c.

That they and their said heirs and successors for ever be free from Murage, Pavage, Pontage, Passage, Keyage, and from all such other like Customs of all Merchandises, and of all their goods of what kind soever, throughout our Kingdom, our Land of Ireland, and our Dominions.

EDWARDUS, &c.

Quod ipsi hæredes et successores sui prædicti imperpetuum sint quieti de Muragio, Pavagio, Pontagio, Passagio, Kaiagio; ac. de omnibus aliis, hujusmodi consuetudinibus de mercimoniis rebus et bonis suis quibuscunque; per totum regnum nostrum ac terram Hiberniæ et potestatem nostram.

Dr. Lucas's note on this is, "This exonerates the Citizens of Dublin from Tolls payable in Towns or other infranchised Places. From all these and such like Tolls and Customs,

Customs, the Citizens are exempted throughout the King's Dominions, as well of England as of Ireland."

These two Charters completely exonerate Freemen from Toll, notwithstanding which, the Toll is exacted from some of the Freemen; this is, however, fast approaching to a complete amendment, which will materially serve the Citizens of Dublin, as well as the Freemen themselves. Every breach made in a system of extortion facilitates its total overthrow.

The Freemen do not now pay for Cattle, Corn, or any thing else, except such Freemen as happen to be ignorant that it is an imposition, or negligent of their rights.

Were it possible to have any doubt as to the entire exemption of the Freemen, such doubt would be removed upon reading the case, "The Mayor and Commonalty, and Citizens of the City of London, v. The Mayor and Burgesses of the Borough of Lynn Regis, commonly called King's Lynn, in the County of Norfolk." 1 Bos. & Puller, 487, decided upon an appeal to the House of Lords in England. This is a case strictly in point with the case of the Citizens of Dublin, and establishes the right of their being exempted from all Toll in all places, and was decided so lately as May, 1796.—See Appendix.

In this case it is observable that the words which exempt the Citizens of London, are the same as those used in the Charter of Dublin, and of course will have the same effect, viz. "Exempting the Freemen of Dublin from all Tolls, Customs, &c. in Dublin, Ireland, or the King's Dominions." This is the opinion of Dr. Lucas, given 40 years ago, published in his Works, and confirmed by so recent and solemn a decision.

When this is generally known, there will, it is to be presumed, be no more charge of Toll upon a Freeman, the aggregate of which is now considerable.

The Docket-sheet posted up in the Toll-houses shews that Freemen are not liable, and if every person who is charged would inspect that Toll-sheet, a great deal of useful information would be had, for in most cases there is an over charge, even where Toll is payable; for "Toll is not payable once out of twenty times that it is demanded."

Every Freeman should apply for a copy of the Toll-sheet, as in it is contained the declaration of all his goods being exempt from Toll; notwithstanding which, some Freemen are yet charged Toll upon their Corn, Flour and Meal.

Meal. From time to time the Freemen are learning that they are exempt by the Charter from all Tolls, and so refuse to pay; but many are still ignorant of the fact of their exemption, and those persons are charged.

A Freeman of Dublin, by the Charter, is exempt from all Toll, Customs, &c. on his goods, as Tolls over Bridges or Ferries all through Ireland, England, or any other part of his Majesty's Dominions.

The Freemen should require the Corporation to produce the different Charters to be inspected by them. They are, by Law, obliged to permit the Freemen to have full and undisturbed access to them. This point has been already decided, and in Dublin. The late Doctor Lucas was a Freeman, and wished much to support (if possible) the credit of the Corporation, and to maintain the rights of the Freemen. He wished to inspect the Charters.—The Aldermen, alarmed at his interference, refused to let him see the Charters. He insisted upon permission, persevered, and showing that they were obliged by Law, compelled them to produce them. He inspected them, and thus detected and exposed a vast deal of the iniquity of the Aldermen of his time.

Every man in the community has a right to free access to every legal and other public document, *any ways relating to himself*, and that without paying any thing for it. It was under this right Doctor Lucas demanded to see the Charters.

I hope the Freemen will avail themselves of this information, and compel the Aldermen to produce the Charters; they can compel them if they please, and it will serve both themselves and the Public.

Several Charters and Letters Patent have been granted to the City, during different Reigns, among which are the following, which I mention in order to direct the search of those who may wish to inquire after them, viz :—

Henry II. May 15th, 1193.

John, 2d November, 2d year of his Reign.

Ditto, 11th July, 10th year of his Reign.

Edw.

Edw.

Ric. II.

H. III.

H. IV.

Hen.

Hen. V, Feb. 6th, 17th year of his Reign.

Hen. VI.

Edw. II, Sept. 8th, 1317.

Edw. III, 5th May, 1336.

James I.

Charles II, 4th September, 1676.

James II, 27th October, 1686.

Letters Patent of Edward, 14th August, 12th year of his Reign.

Do. of Edward III. 26th Sept. 37th year of his Reign.

Toll thorough is abolished by Act of Parliament, 4th Anne, c. 8. I shall explain the nature of Toll thorough, and the effect of said Act. Thus, if a man has goods brought to town by the Royal Canal, which is in the County, and that he lives out of the City of Dublin, though within the Circular road, the goods passing through Dublin are not liable to Toll coming in or going out. If he lived, for instance, in Cavendish-row. Mountjoy-square, Camden-street, Prussia-street, the Liberties, that part of Bishop-street, Britain-street and Summer-hill, which is in the County, North Great George's-street, &c. &c. all of which are in the County of Dublin, out of the jurisdiction of the City of Dublin, in such case his goods are not liable to pay Toll. Any man who pays Toll should consider this, for he may be exempt, though his next-door neighbour should be liable.

Until lately the utmost ignorance prevailed as to Tolls; and the Public, without inquiry, paid for every thing, and to whatever amount the Tollmen chose to demand. The Brewers, till lately, regularly paid for their Porter and Ale going out of town 3d. each hogshead, making generally 1s. for each dray. Now, supposing them liable to Toll going out (which I positively deny) what can the amount of that Toll be; only, "3d. for every car load of merchants' goods not herein particularly specied, being the property of one person;" thus, if the Tollmen be entitled to any thing, their own Docket-sheet limits the amount to 3d.—But the Docket-sheet itself shews that they are not, so far as regards the Brewers, entitled to any thing going out. It has this charge,

"Every barrel of Ale *coming in*, brewed without the City or Liberties adjoining, 2d."

This specifies clearly upon what they are entitled to Toll, *Ale coming in*. Now it would be hardly possible to comprehend Porter going out, by the words *Ale coming in*.

BRAN

Bran and Hay-seed had never been charged Toll until within these two years, neither are liable to any Toll whatever; nor is there any charge in the Docket for either Bran or Hay-seed; and when any one refuses to pay for them, the Tollmen suffer him to pass without attempting to stop him.

Nothing but an express Grant will entitle the Corporation to take Toll, and that no custom will justify them. I wish to call the attention of the Public to this point particularly, as many conceive that Toll may be payable from *long usage*, and so become payable by custom. This is not the fact; no custom will justify Toll, and the person acting according to such custom would be liable to indictment for extortion, and to a civil action for the injury. The case which I shall quote as my authority is *Halloway v. Smith*, 2 Strange's Reports, 1171, where a Fair was granted so long ago as the time of Queen Elizabeth, and it was held in that case, "That Toll was not incident to a Fair, and that no custom would warrant the demand." See Appendix.

There are many cases to the same effect, all establishing the same doctrine, that Toll cannot be claimed by custom. Now I aver, that one-twentieth of the items specified in the Toll-sheet, are not contained in the Charter, and suggest the propriety of going to the City Archives to inspect the Charters of the City. The Corporation is bound to produce them to the Public; but should they refuse, a Magistrate's summons for any claim of Toll would bring the entire to public view—also at the Roll's Office, or Auditor General's Office, the Charters are to be seen enrolled.

The goods, tents, &c. going out to, and returning from the Fair of Donnybrook, are charged Toll on passing the Toll-house, notwithstanding that the *Fair Green of Donnybrook is within the City*.

Every thing brought there by the person having tents, &c. used to be regularly charged most exorbitant Toll. Now this charge was liable to two solid objections:—1st, The goods were going out. Even if the Fair Green, their ultimate destination, was in the County; and as no goods going out are by Law liable to Toll, these goods were exempt.

2d. The place to which they were going is in the City; the Toll Farmers themselves could lay no claim to Toll,
but

but finding the people ignorant and timid, they took advantage of it, and made them pay.

Hundreds who go there are so ignorant as not to be able to understand the distinction between County and City, and these poor ignorant creatures are easily imposed on.

Many, however, who are now informed of the fact, "That they are not liable to pay any thing," are resolved to force their way.

The amount received at the Toll-house upon the goods going out to Donnybrook, and upon the goods returning at the end of the Fair, is almost incredible, it exceeded 160l. This will be another considerable deduction out of the profits of the Tolls.

It is a curious fact, that at all the Toll-houses the prices vary in proportion to the general state of ignorance of the persons who usually pass that way; and this is shewn at the Toll-house at Donnybrook in a number of instances: first, Lambs are charged there one halfpenny a piece, for the County Wicklow Lambs mostly come in that road. At Dorset-street, &c. Toll-houses, Lambs are only charged one farthing a piece, which is the sum specified in the Docket. 2dly, Flaxseed is charged at Donnybrook Toll-house, and at James's-street Toll-house, 3d. per hogshead, while in Dorset-street and Constitution-hill Toll-houses, nothing is charged upon Flaxseed.

Pigs are charged one penny each at all the Toll-houses, although in the Docket only liable to one halfpenny each, and sucking Pigs to one farthing each.

Calves are often charged one penny, although only liable to one halfpenny each.

The Toll-men know each person who is in the habit of passing in and out, and if they find that the man is likely to submit, they increase their demand; (suppose on Fowl) and when he asks the reason of being charged this week double what he was charged the last week, he is told, "That the Tolls are raised." Thus, at Donnybrook Toll-house they charge for every dozen of Fowl on a cart, two pence, frequently up to 2s. 6d.; whereas a whole cart-load of Fowl is only three pence if it contained twenty dozen, and a single dozen of Fowl is only one penny;—under a dozen nothing.

But the most leading and prominent fact is, the People paying for goods going to Kevin-street markets, where neither Hay, Straw, Corn, Eggs, Butter, Potatoes, Char-

coal, Calves, nor any thing else going to Kevin-street markets, are liable to Toll. These markets are in the County of Dublin.

The Lord Mayor is bound, by the Act of Parliament, 1st Geo. III. c. 25, under a penalty of ten pounds, to post up the Schedule of the Tolls, in some *conspicuous part of the Market-house or Market-houses*, on every market-day, for one month next ensuing every Michaelmas-day. But no Lord Mayor has ever complied with that Act; so that, as to any benefit to the Public, it is a mere dead letter. It is to be hoped the Public will not suffer it to remain so.

A copy of it is, by a printed board, affixed on each Toll-house, announced to be hung up in each Toll-house for the Public inspection, but it frequently happens at the different Toll-houses, that when a poor man requires to see it, the Toll-man refuses to let him look at it. This occurred at the Toll-houses on Donnybrook-road, and in Lower Dorset-street.

The Docket should be posted where the Act requires, "In a conspicuous part of the Market-house," and not in the Toll-house, liable to the insolent refusal of the Toll-men, who would, most likely, refuse to shew what, on the spot, could convict themselves of extortion.

If posted where the Act requires, every person not only could see it, but it would be thus brought to his view, and he be induced to examine it, and thus lead to the detection of these impositions.

The circumstance of the Act so requiring the Docket to be hung up in the *Market-house*, is a clear proof that the Legislature considered the Toll as payable *in the Market, and on Market-days*, as declared by the votes of the Irish House of Commons, to be the only lawful place and time to collect Toll.

The Toll on Corn comes in the year to a great sum, although not a quarter of what was paid heretofore. The Corn-dealers, Factors, &c. are a large and wealthy body, and a very trifling exertion on their part would curtail the imposition to about a twentieth of what is now paid.

CHAPTER III.



THE impositions in the markets are very great, particularly those in the Hay and Straw-markets.

Previous to 1814, the only Toll payable upon Hay and Straw was one farthing upon each load payable at the Toll-house, and one halfpenny payable at Smithfield; the two charges amounting to three farthings, were, however, received at the Toll-house, and here is a convincing proof how strenuously every innovation and attempt at imposition should be resisted. For the Public paying the halfpenny for Smithfield at the Toll-house, it was regularly charged upon Hay coming into Dublin, whether going to Smithfield or not, and the Public lost sight of the distinction. This charge of the three farthings therefore became an established charge, and Hay and Straw coming in on market days were charged, though not going to Smithfield. What followed? The three farthings having thus become established, a new scheme was struck out, which is well known. The cars were weighed, and charged 2s. 6d. for weighing, being a gross extortion, which the Farmer could then resist, and might still overhaul.—They were also charged 1d. for the number marked on the cars and carts, and they are now charged the three farthings at the Toll-house, and one halfpenny per Cwt. for weighing. At first the charge was only one farthing per Cwt.; but having submitted to the imposition of the farthing, it was conceived they would not resist paying the halfpenny per Cwt. All these charges are illegal and unwarrantable, and the persons who make them are liable to be indicted for extortion.

The imposition practised on the Public, by the late system in Smithfield, is considered nearly 2600l. a year. The weighing and numbering of 4000 cars, at 2s. 7d. each, came to 512l. 10s. 0d. all out of the Farmers' pockets, and that too at a time when the whole produce was not sufficient to pay the Rent, even if Tithes, Tolls, Labour, &c. were not to be paid.

The money paid by the Farmers for weighing and numbering their cars may yet be recovered back from the persons

persons to whom it was paid, as also the money charged for weighing the Hay and Straw.

All that Hay is liable to now is, the Toll in the Docket, viz. one farthing each load at the gates, and one halfpenny in Smithfield, making in all three farthings. The Farmer should pay no more, for there is no authority whatever to raise the dues of the markets under any pretence whatever.

In the Potato, the Fowl and Egg, the Butter and the Fruit-markets, very great impositions are practised.

Potatoes, by the Act 25th Geo. II. c. 15, are to be weighed *gratis*—yet 3d. each sack is charged for weighing them. On the quays, 7s. 7d. is charged to each Potato boat for the use of a beam and scales, and 5d. per Ton for seeing them weighed, which is contrary to said Act.

A few years ago, only 1d. the sack was charged for weighing, and even that 1d. was an imposition.

The late Butter Act, 52d. Geo. III. c. 134. s. 17. limits the charge for weighing Butter at the cranes; the overcharge there is to a very great extent, and very well deserves the Exporters' attention.—See Appendix.

In the Poultry and Egg-markets the Higglers are charged 1d. per hundred in number for the standing, and 1d. per dozen for Fowl. These charges are illegal, an extortion, and creates a forfeiture of the market, for (*King v. Burdett*,) the market must be free and open without payment of any thing for the standing; and actually there is no charge in the Docket, save for

“Every standing for Fowl per Week, 2d.”

But this charge does not apply to the Country people who bring their Fowl to market—they are not liable to pay any thing. The Countrymen declare, that but for the combinations which exist between the Chicken-butchers, the Fore-stallers and the Factors, Chickens and Fowl would be sold for half their present price, and the Countryman better off.

It is right, therefore, to inform them that every man is at liberty to sell his own goods, and the preventing him from so doing, by any means whatsoever, or the doing of any thing else, by which the price of provisions may be raised, is an indictable offence, and the punishment is fine and imprisonment, at the discretion of the Court.—

One person in the City of Dublin was, a few years ago, found guilty, fined and imprisoned for forestalling Potatoes. The Countrymen are entirely ignorant of their right to sell their own goods. The Factors take advantage of this

this ignorance for their own advantage, and prevent them from selling their Potatoes in any other manner than through the Factors, who encourage forestallers, and each, conscious of the illegality of his conduct, winks at the extortion and mis-conduct of the others.

Live Fowl, though charged at the Toll-houses, are not liable to any Toll, as will appear by the Docket-sheet posted up, (see Appendix,) where the only charge is for dead Fowl.

In the Butter-market, the charges now made for weighing are,

All drafts under 1Cwt.	-	-	-	3d
Do. 1Cwt. and upwards,	-	-	-	4

It will be seen by the Act of 25th Geo. II. c. 15, in the Appendix, that the only legal charges are,

All drafts under 1Cwt.	-	-	-	0½
Do. 1Cwt. and upwards,	-	-	-	1

Yet for weighing bowls of 7 or 9lb. weight, 3d. each is charged.

In the Fruit-market an extravagantly enormous imposition is practised, as if the tenants of the markets, from the success of others in similar impositions, supposed that they might push theirs to any extent. The Country people are now resolved to resist the payment of the present illegal charges, for neither the Lord Mayor, nor any other person, has any authority to increase the charges at the Toll-houses or the Market-houses, and therefore the present tenants have no authority to charge the sums above mentioned.

The items in the Toll-sheet published in the year 1763, under which the present tenant took the markets from the City, are as follow:—

For every car-load of Apples or other Fruit,	-	-	2
Every horse-load of ditto,	-	-	1
Every flasket of ditto,	-	-	0½
(Not exceeding the price of a car-load.)			

IN THE MARKETS.

For every car-load of Fruit,	-	-	2
Every kish-load of ditto,	-	-	1
Every flasket of ditto,	-	-	0½

No other charges are legal, and any person demanding more may and ought to be resisted; and the person who receives

receives more, may be indicted for extortion, and double the money paid recovered back.

Having thus mentioned the old established charges, I shall proceed with the *newly fabricated* Docket:—

A LIST OF ILLEGAL CHARGES.

For every dozen noggins of Raspberries,	-	1d
For every basket of Currants, Strawberries, or } Gooseberries,	- - -	1
For every kish of do.	- - -	5
For every hand-basket of small Fruit,	- - -	0
For every clieve of do.	- - -	1
For every second size do.	- - -	1½
For every third do.	- - -	2
For every kish of Apples, if more than one on a car,	-	3
For every car-load of Apples,	-	6
For every basket of Nuts,	- - -	1
For every clieve of do.	- - -	3
For every basket of Wall-fruit, or Hot-house } Fruit,	- - -	2
For every Article not here enumerated,	-	1

In addition to all these illegal charges, the persons who retail the Fruit in the market, are charged a weekly rent for their standings, some of them 2s. 6d. a week; this, or any other charge for a standing, is quite illegal, as the market must be open to every person to come and sell without payment of any thing, unless they use a stall or shed. These persons might resist the charge, might indict the owner of the market for extortion, and recover back double what they have paid. Nay more, if the owner of the market builds more stalls or sheds, that there is not sufficient room for the people to stand and sell their goods, and so they shall be compelled to use a stall, and the owner shall charge for such stall, the owner of the market is, in such a case, liable to be indicted for extortion.—See Appendix, *King v. Burdett*.

A distinction has been attempted by the Toll-farmers between “Toll and Custom,” and by this the Freemen, as above stated, were tricked into paying “Toll,” but there is no difference whatever. “Toll” is a general word, and in the different Law Books and Acts of Parliament, is more frequently used than “Custom.”

By the very Toll-sheet, (see Appendix,) raw Hides, Bark, Irish Salt, Iron, and all goods going to be manufactured, and the materials to be used therein, are exempt from

from Toll, though many pay through ignorance. Every person who pays Toll should keep an entry of the amount, the date, the servant's name, the name of the Toll-gatherer, and then upon an investigation he may recover back double the amount, with the penalties also; and in case of any inquiry being instituted by Parliament, such an entry may be of great service.

Till lately the Brewers in the City of Dublin paid 3d. each Hogshead going out; but they now do not pay any Toll whatsoever for their Porter or Ale. Their refusing to pay Toll was in consequence of the Letters which were published on the subject.

On the 3d of January, 1816, a trial took place in the cause of Shea against Beresford and Doyle, where 12l. damages were given for the stopping *goods going out* of the City. See Appendix.

In that case it was proved on oath, "That in the year 1809, a claim of Toll going out was made on a person who had sense and spirit to resist it. At the request of the Toll-farmers the matter was left to the arbitration of the Recorder of the City of Dublin, who, after three days examination of witnesses, and the most deliberate investigation of the subject, decided, that the Corporation were not entitled to it."

Toll first came to be charged upon Corn going out in 1800, when considerable quantities of Foreign Grain being imported, the Toll-farmers demanded Toll on it going out. Some persons who knew the illegality of Toll being charged on any goods going out, refused to pay, and threatened to proceed against the Toll-men for stopping their drays, upon which the Toll-farmers applied to them, and said they would suffer their Corn to pass, and begged them not to make a noise about it.

The persons who paid, however, never knew the distinction as to its being Foreign or Irish Grain, and they erroneously conceiving that the Toll-farmers would not make an illegal charge, continued still to pay whether the Corn was Foreign or not. Thus it continued until some person resisted in 1809, when, as before stated, the claim was left to the arbitration of the Recorder, who decided against the claim of the City.—The amount of the Toll upon Corn is very considerable.

Goods carried out by the different mail-coaches, day-coaches and private carriages, never are charged Toll.
The

The charge would be considered monstrous—yet if the same packages be sent out upon common cars or drays, they are charged. This is a manifest contradiction, for Toll is payable in respect of goods, not in respect of the mode of conveyance. Yet in the instance just put, the goods are charged Toll if carried by the same conveyance, but not if carried by the other. The Toll-farmers say, “All goods are liable to pay on passing the gates in and out;” yet if carried by a day or stage-coach they are not charged; if carried by a car or cart they are charged.—Why are the stage-coaches allowed to pass? Because if such charges were attempted the Proprietors would resist them, and the Toll-farmers know well that they could not force such demands, and exposure would follow.

Waggoners, carriers, &c. are not liable to be charged any Toll. “*Fitz. Tit. Toll, pl. 2. cites Hill 50. Eliz. 3,*” the charge upon goods going out would not be worth collecting, as almost all the goods which go out of Dublin are brought by the common carriers.

CHAPTER

CHAPTER IV.



MANY persons do not sell their Cattle in Smithfield on the first day; the next day, when returning to market, they must pay Toll again, and so from day to day until they sell them. This is a serious imposition, but a single reading of the third section of the Act of Parliament, 4th Anne, c. 8, will expose the imposition. It establishes, *that no Cattle remaining unsold, shall pay Toll.* This would be nonsense if it were lawful to take the Toll before the sale, and confirms, "That Toll is not payable until after the sale;" for until the market is over it would be impossible to know whether the Cattle would remain unsold or not. Some graziers do not now pay Toll on their Cattle coming into Smithfield market.

If a person who lives in Dublin goes to a Farmer who lives in the Country and buys Corn, Hay, Potatoes, Butter, Cattle, &c. &c. for his private use, no Toll is payable upon these on their coming in to be delivered in Dublin to the buyer.—(See Votes of the House of Commons, and in Appendix).

Let the Farmer consider this attentively, for the more the subject is considered, the clearer it becomes. The pressure upon the Farmer is sufficiently great, and the Tolls charged are a considerable addition.

Persons frequently bring goods up by the Royal Canal for export.—These are, by the operation of the Act, 4th Anne, c. 8, free from Toll.

In three cases out of four, of goods by the Royal Canal, no Toll at all was payable, though frequently charged.—The present state of agriculture, the present state of the funds of the Canal, and the very misconduct of the Toll-men, strongly urges putting the Royal Canal on the same footing with the Grand Canal. The two clauses in the Acts of Parliament, as to the Grand and Royal Canals, are in the Appendix.

The Farmers ought to call a general meeting, and by an united effort, force the Toll-farmers to do them justice.—A little trouble would effect it, and it would not be attended with an expense worth considering—twenty pence each would more than be sufficient.

A great part of Dublin, viz. Mountjoy-square, Cavendish-row, part of Gt. Britain-street, part of Harcourt-street, &c. &c. is in the County of Dublin; out of the jurisdiction of the City of Dublin; yet Toll is demanded upon goods coming by the Royal Canal and by cars to persons residing in those streets, which are in the County; and many, ignorant of the distinction, pay, though by said Act, 4th Anne, c. 8, all goods going to such parts of Dublin, are free from Toll.

The Toll charged upon goods going out and coming in is, in the Docket, called. "Customs of the gates of the City of Dublin." Now on the north side of the City of Dublin, there never were walls or gates, and consequently no Customs could originally have been paid on the north side for passing gates which did not exist. A claim of Toll for turnpike might as well be made upon the south side of Dublin, where no turnpikes now are, merely because turnpike is payable on the north side of the City. This is plain, if once seriously considered.

The imposition of taking Toll on the north side of the river, came to be submitted to in the following manner:

The Customs of the gates were originally charged at the very gates, and so were charged only on the south side of the City where those walls and gates were. At length the gates and walls were removed, but the Corporation still demanded the Toll; and when they found the People submit to pay it, though walls no longer existed, they extended their imposition, and demanded the Toll on the north, as well as on the south side of the City. The Public forgót the distinction.—Many paid because others paid; and so the imposition continued until the year 1662, when a petition was presented by certain persons to Parliament on the subject, and the Committee to whom the petition was referred, reported as one of the grievances, "That the City of late charged Toll in all places within the jurisdiction of the City, *as well without as within the City*;" and this report was confirmed by the whole House, who came to a Resolution, *that such was a grievance.*—(See Appendix.)

The Corporation then submitted—Parliament made some regulations as to the Toll, and the persons who presented that petition being no longer charged Toll, and having obtained redress for themselves, took no further trouble in the business—whereupon, after some time the Corporation

Corporation re-commenced their old extortions, until Parliament again interfered, and in 1703, voted their conduct to be a High Misdemeanour, (see Appendix,) and followed up that Vote by the Act of Anne, c 8, so often relied on throughout this Work; and indeed, if that Act was put in force, scarcely any imposition could be practised. This last Vote and Act again brought back the Corporation to their ancient limits, viz. *within the City*.

But now again, Toll is charged both south and north, and even in the County Dublin.

The ancient bounds of the City walls are to be seen in a Map of Dublin in 1610, published for "Harris's Survey of Dublin," and is well worth looking to by all persons who pay Toll, either on the north or south side of Dublin.

For it is well known that Trinity College, on the south side of the river, was always, and is still, described as being "*near Dublin*;" so that by the Resolutions of the House of Commons, taking Toll so far as the College on the south side would be illegal, but they take Toll beyond Ball's-bridge.

By establishing the above rule, namely, "That Toll is only payable at the very gates of the City," no Toll would be payable on the north side, and so most of the goods by the Royal Canal would become free of Toll; and thus the two Canals be nearly upon an equal footing in respect to the Toll passing, which is now a serious injury to the Royal Canal.

By 11th & 12th Geo. III. c. 31, s. 29, all goods by the Grand Canal are exempt from Toll, either in or through Dublin, or in or through any other place; yet Toll is charged upon such goods. A great quantity of the goods which come by the Grand Canal are made to pay Toll passing through the City when going out, and the persons ignorantly pay it.

By 1st Geo. III. c. 17, s. 27, all Turf, Furze and Timber, (in faggots for fuel) are exempt from Toll in all parts of Ireland.

By 3d Geo. III. c. 34, no Toll, Custom or Duty whatever, shall be paid or demanded for any Flax-seed, Hemp-seed, Flax, Hemp, or Cotton, or any Cloth made of Linen, or Hempen, or Cotton Yarn, or Cloth made of Linen or Hempen Yarn and Cotton mixed, Kelp or Pot-ashes, Wheels, Reels, Hackles, or Looms, for or by
reason

reason of their being brought to, or kept in any Market or Fair, or for the passage of them, or any of them, over any bridge, or through any City or place whatsoever, (Turnpike Gates only excepted.) a penalty of 40s. for each offence; yet very lately Toll was taken, demanded, and insisted on from many persons bringing out Flax-seed to the Country, 3d. each hoghead. Also Potashes and Kelp are frequently charged.

Many persons who bring in Linen Rags to sell to the Paper Manufacturers are charged Toll; also Ropes in and out have been charged Toll, contrary to this Act.

Coloured Cotton Goods are frequently charged Toll passing through the Town of Drogheda, as also the Cotton Wool, for all which the Act of Parliament, 3d Geo. III. c. 34, inflicts a penalty of 40s. for every offence. Also, by that Act, it would appear that charging Toll on these articles passing over the bridges of Derry, &c. &c. is illegal, as that Act forbids all Toll except for Turnpike Gates. This is worth attending to, as a great deal of Flax-seed is carried over the bridge of Derry.

And that same Act also requires all Linen Cloth or Yarn sold in any Fair or Market, to be sold within the custom gates or gaps of such Fair or Market, under pain of forfeiture.

Thus that Act exempts all Linen, Cotton, &c. from payment of any Toll, Custom or Duty whatsoever; and it also requires all Linen and Yarn to be sold within the Fair, thereby to enable the proprietors to make returns of the quantity sold, and to prevent frauds in the sale.

By the Act 53d Geo. III. c. 123, the only charge on passing over the bridge of Wexford, over the river Slaney is,

For every piece of Linsey or Linen, - - - 0½d

Consequently all the other things above mentioned, viz. Flax, Hemp, Cotton, Looms, &c. can pass Toll free, over that bridge at Wexford.

Drays passing through Drogheda are charged 6d. each, which is contrary to the said Act of Parliament, 4th Anne, c. 8; the penalty for such demand is 10s. for the first offence, and 5l. for every other offence—to be recovered before a Magistrate.

The Lord Mayor has lately attempted to prevent the selling by sample in the Corn-market. Constables endeavoured to stop the Factors, and one gentleman was very violently

violently treated ; he is a Factor, and it is remarkable that he never sells a grain of Corn which comes by *land carriage*, but the greatest part, if not all the Corn which he sells, comes by the Grand Canal ; yet his Lordship seized upon the sample bags which Mr. Dalton had in his hands, and the constables and policemen attempted to take him into custody ; for what ? For selling Corn by sample, which Corn came by the Grand Canal—thus attempting to inforce his illegal conduct by violence ; I say illegal conduct, for I aver, that any Factor, or other person who pleases, may sell his Corn by sample, and that there is no Law to prevent him from so doing, where the Corn comes by the Grand Canal, by the Royal Canal, or Coastways ; and that any attempt to obstruct him in selling such Corn by sample, is highly illegal, may be resisted by force, and that the Lord Mayor and all assisting in giving such obstruction, are liable to actions at Law for the injury, as well as indictments for breach of the peace.

I do not know how his Lordship may be treated by the Factors on the Grand Canal ; but he may depend upon it, he will meet with a very determined and spirited resistance from the Factors on the Royal Canal. With the Factors and Farmers on the Line of the Royal Canal, it will be of great importance, *as thereby their Corn will be free from Toll.*

The two Canals are differently circumstanced as to Tolls ; for, by the Act of Parliament, all Goods, Corn, &c. coming or going by the Grand Canal, are free from Toll ; but by the Act of Parliament respecting the Royal Canal, the right of the Corporation of the City of Dublin to Toll, is not done away, so that where *by Law* entitled to Toll they are still entitled. Thus it will be seen, that to the Royal Canal it is of great importance to establish the practice of selling by sample, for *thereby* they will be free from Toll, whereas the Grand Canal is *at all events* free from Toll. So that with the Grand Canal Factor it is only a matter of convenience ; with the Royal Canal Factor it is both a matter of convenience, and an important matter of interest ; because it being clear matter of Law, *that Corn by sample is not liable to Toll*—what is the saving to the Farmer who sends his Corn by the Royal Canal ? No less than one farthing a barrel, and one barrel of Corn out of 80, at the very least.

This appears trifling to a small Farmer, and not worth disputing about; but to an extensive Farmer it amounts in a few years to a considerable sum, and the Farmers now look to every charge the most minute. For when they have not money to give employment to their starving neighbours, they will not be so liberal to the Corporation of the City of Dublin. Let it be considered, that it is considerably more than one eightieth of the Farmer's property; nay, it is actually more than one eightieth out of his marketable Corn—what is to pay his Rent—his Taxes—his Tithes—his Workmen?

Many persons are yet ignorant of the distinction which, by Law, is made between the Corn brought by land carriage, and the Corn brought by the Canals and Coastways. And supposing his Lordship would not act illegally, they think *he must be right*. And as he exerts his authority to put down all selling by sample, they conceive he must have the power by Law to do it. This is not the fact.

This idea, however, will be at once removed by looking at the Lord Mayor's Proclamation, in which he confines himself to Corn brought by *land carriage*. Let them look at the Act of Parliament, of the 23d and 24th of the King, under which his Lordship professes to Act, and they will see it relates entirely to Corn brought by *land carriage*.—Then it may be asked, how came his Lordship to prevent the Factor selling by sample, when his Corn comes by the Grand Canal, and not by *land carriage*? To that question it is impossible to give the proper answer. But this I can say, his Lordship has no Act of Parliament to support him in his treatment of that Factor.

The great object in this case is, to secure the Tolls upon Corn to the Corporation, and this will be manifest, upon taking a short view of the subject.

Selling by sample was introduced by Alderman Beresford during his Mayoralty. The fact, *that by Law Corn sold by sample was free from Toll*, was published in "*Car-rick's Morning Post*." That was denied by the Corporation; and as many persons refused to pay Toll upon Corn sold by sample, the Corporation issued a Proclamation, that they would compel the payment of Toll upon Corn sold by sample. That Proclamation was disregarded—the People refused to pay—forced their way in spite of the Tollmen. Upon this, another Proclamation is put forth, by which it appears, that the Corporation had found
out

out and considered, that by the Act of Parliament, introducing the practice of selling by sample, was highly illegal, and that after a certain day no Corn should be sold by sample. But observe, that is and must be, Corn brought by *land carriage*; for with Corn brought by the Canals or Coastways they cannot interfere; and the Factors may or *will* continue to sell such Corn by sample, without his Lordship's being able to prevent it.

The City claim a right to the Toll which they demand, under pretence, that they paid 2000l. a year towards the paving of the streets. This is not the fact, as the following Statement will shew, for the 2000l. paid by the City was not for paving the streets, *but was for sweeping the streets*. This I shall shew from the Acts of Parliament themselves, and I shall also shew what they really do pay for PAVING.

The Act, 47th Geo. III. sess. 2. c. 109, s. 51, recites, "And Whereas, the *cleansing* of the streets and other places in the City of Dublin, before the passing of a certain Act of the 24th and 25th years of his present Majesty's reign, entitled, &c. &c. was conducted and managed under the decision of the Lord Mayor, Sheriffs, Commons and Citizens of the said City, and the expenses thereof were defrayed by them out of the revenue arising by the Tolls and Customs of the said City. And Whereas, since the passing of the said Act, the said Lord Mayor, Sheriffs, Commons and Citizens, have paid to the Commissioners intended to manage the paving, lighting and cleansing the said City, the sum of 2000l. yearly, *towards* defraying the expense of cleansing the said streets." It enacts that 2000l. shall be paid towards defraying the expense of cleansing the streets.

The sections 49 and 50 further demonstrate the truth of my assertion, and also shew, that the Legislature must have been suspicious of the Corporation attempting the deception which I am now endeavouring to do away. For section 49 recites, "That it was incumbent on the Lord Mayor, &c. to have and keep in repair, *certain parts of the pavements* of said City;" and it goes to say, "That the estimated expense of paving those certain parts, (including Stephen's-green,) was to be 350l." and then enacts, "That the Lord Mayor, &c. shall pay 350l. a year; and in consideration of such payments so to be made, the said Lord Mayor, &c. shall be discharged and exonerated from all costs and expenses of paving and repairing the said pavements, and of the pavement around St. Stephen's-green.

Thus

Thus it is manifest, that all the City pays for, or *towards* paving the streets, is 350l.—not 2000l. as asserted by the Corporation.

Section 50, recites, “That the Lord Mayor, &c. used to maintain and light several globes or lamps at the Mansion-house, Tholsel and Market-house,” and enacts, “That they shall pay 20l. a year in lieu thereof.”

And in the Act of Parliament a distinction is made between *paving*, lighting, and *sweeping*, and separate sums appropriated for each.

A person might well imagine the Parliament was aware of the turn which the Corporation would give it, if the whole amount had been put together, and not as above—separately; for it would then have been confidently asserted by the City, that the 2,000l. was paid for paving; such assertion, however, is now negatived by the Act of Parliament itself.

The Corporation get full value for the 350l. *paid for paving*, not 2000l. as alleged; as for that sum, the Mansion-house, Market-house, Tholsel, Stephen’s-green, Smithfield, &c. are paved and kept in repair.

The charge for paving Stephen’s-green would be nearly 250l. a year, if the City were charged at the general rate, viz. one shilling a foot all round the Green, being the usual charge for dead walls. This leaves but 100l. a year for the paving of the rest of the places belonging to the Corporation.

The underneath extract, from the accounts of the Paving Board, will set the Public right as to those assumed claims of the City; for it thereby appears, that the expense of *cleansing* the streets of Dublin, amounted for the year ended, 5th January, 1815, to 5903l. 19s. 7½d. and the City only pays 2000l. *towards* it. That the *paving*, flagging, and lighting, for the same period, amounted to 30,935l. 6s. 3d. towards which the City only pay 370l.

The Commons’ Journals shew—

“That in the year 1662, complaints were made to the House of Commons, of the gross extortion of the Corporation. These complaints *were established*—the Corporation threw themselves on the mercy of the House of Commons. A regulation then took place as to the Toll on Corn, viz. *that Corn should only be taken in the Market, and on Market-days*, a certain quantity to be taken for Tolls was ascertained; *Corn for private use to be exempt* from

from Toll, &c. &c. An Address was voted to the Lord Lieutenant, praying to allow the City to take the Toll according to the regulation, and "Sir William Davis, Recorder, assured the House, that when the Toll came to be taken according to the manner proposed in the report, *the Tax now laid upon the inhabitants of this City for CLEANSING the streets would be taken off.*" Well, the Toll was taken by the City, even more beneficially than that proposed by the report, and has so continued ever since; but the Tax was not taken off the inhabitants of this City for *cleansing* the streets.

Observe again, the 2000l. a year is paid, *not for paving*, but for *cleansing*; and that too, the cleansing of the different City markets, the profits of which are very considerable; for it is asserted, that the Potato, Fruit, Corn, Hay and Cattle markets, do not return less than 12,000l. a year to the City, or those to whom they *choose* to set them.

Thus, it would appear, the Corporation are still largely indebted to the inhabitants; and it was that consideration, no doubt, which induced the Parliament to make them pay the 2000l. to force them in some degree to restore a part of what they had consumed of the Public money, for which they gave no value.

No Corn for private use is liable to Toll, so that a person buying Corn in the Country or in the market for the use of his family, is not liable to pay Toll for it.

This is manifest from the said Votes of the House of Commons. By these Votes Toll is only of right to be taken in market, and upon market days; and the *quantum* to be taken is one sealed quart struck of Winchester measure out of each barrel of Wheat, Rye, Bere and Barley, and three pints struck out of each barrel of other Grain sold in the market.

And when walls were about Dublin, one farthing a barrel was charged for the Custom of the gates; but the right to that charge is done away, as no gates now exist; and even if the gates and walls still remained, the farthing a barrel for Toll thorough ceased by the operation of the Act of Parliament, 4th Anne, c. 8, which abolishes Toll thorough.

The place where the Toll shall be by right taken is, by said Votes of the House of Commons, stated to be *in the market*, and on market days. These Votes declare, *the taking of Toll in all places within the jurisdiction of the City,*

as well without as within the City, to be a grievance. This requires to be explained, and the explanation and Vote being considered attentively, will shew beyond a doubt, that Toll cannot by Law be taken on the north side of the river Liffey ; for, at the time of that Vote, in the year 1662, the City was surrounded by walls with gates, and it was only *at these gates* the City had a right to demand Toll ; but they extended their Toll-stations to the very verge of the parts within, *not the City*, but within the jurisdiction of the City, which jurisdiction extended to the Black Rock and to Clontarf ; and so one Toll-house is now beyond Ball's-bridge, and another Toll-house at Ballybough-bridge. This was by said Votes declared to be a grievance, and is as much a grievance at this day as it was then.

Thus, if the Corporation be confined to taking the Toll within the proper limits of the City, no Toll could be demanded at the north side of the river Liffey.

If a person buys Corn at the Royal Canal harbour, or buys it in the market by sample, that Corn is not liable to Toll.

CHAPTER

CHAPTER V.

THE Farmers round Dublin suffer considerably by their ignorance respecting Tolls, for I repeat, that Toll is not payable in one instance out of twenty where it is now charged.

Another thing also contributed to the support of these impositions, namely, the great dread that the ignorant Country People entertain of the Toll-collectors at their different Toll-houses. This dread was industriously kept up until it became so impressed on the People's minds, that to this day, notwithstanding all that has been said and done on the subject, it has not been entirely eradicated.

If the Farmers knew that all goods going to Kevin-street market, are free of Toll and Custom, many would go there who now go to Smithfield. In fact, by Law no Toll or Custom is payable on the north side of the river Liffey at all—this the Votes of the House of Commons of Ireland, satisfactorily shew.

In Dublin, the Toll-houses which are in Dorset-street, New-street, on Mespil-bank on Donnybrook road, and at Ballybough-bridge, are in the County of Dublin, contrary to the Act, 25th H. VI. c. 3. This Act makes it illegal to take Toll there, and the House of Commons have voted it a High Misdemeanour. By the Votes of the House of Commons, in the Appendix, it will be seen, that it is the duty of the Grand Jury for the County of Dublin, to have these Toll-houses, which are in the County of Dublin, presented as nuisances. The having persons stationed at Portobello and in Upper Dominick-street collecting Tolls remote from the old established Toll-houses, is also contrary to the Act; and in all these cases the Public may resist by force, and even after a successful resistance, may bring actions against the City and the Toll-man, under the Act of 32d G. III. for the trespass.

Very great and oppressive exactions are practised in the different Fairs and Markets all over the Kingdom, which, it is hoped, this Treatise will contribute to remedy. It applies to every Market and Fair in the Kingdom, as well as to the Dublin markets.

The

The abuses in the different Fairs throughout Ireland are incredible. The annual amount of the extortions, exceeding the proper and just Toll, is by many said to be upwards of 700,000l.

Wherever Toll is payable, a charge is made fully quadruple the legal demand; and this four-fold extortion is enforced by the most violent and overbearing conduct, in order to intimidate the ignorant Country People into an unresisting submission.

In one Fair in the County of Kildare, not many years ago, the Toll-gatherer demanded from a poor woman Toll upon two small earthen Pipkins, which she had purchased in the Fair for one halfpenny each, and he demanded one halfpenny each for Toll.

This is by no means a solitary instance of extortion, for it is unhappily the fact, that this extortion pervades the entire Kingdom, and no where is it greater than in the poorest and most remote parts of Ireland—because the Toll-farmers know that they are too poor to look for redress, and as the Country People find the same charges at all the adjoining Fairs, they believe them to be so established as not to be resisted.

At the Fair of Granard not long ago, a boy was bringing in some pieces of Frize. the Tollman demanded 6d. Toll—the boy had it not—the man would not take his word for the money until he should sell the Frize, and he kept the poor boy so long out of the Fair that he entirely lost his market, and had to bring back his Frize several miles, to his great loss and inconvenience.

It is to be hoped the Legislature will interfere to put an end to these abuses—there is a good precedent for it.—(See Cro. Eliz. 551 591—in Appendix)—as it is the fact, that *in England the greatest part of the Fairs have not any Toll.*

There shall be no Tolls, Customs or Market-dues. The People should pay those who attend to regulate the Fairs and Markets. The *cheapness* which would result from a free intercourse would be to them a sufficient compensation.

In many Fairs in Ireland Cattle are charged both before and after the sale. This is lately the case at Irvinestown, (late Lowtherstown) in the County Fermanagh. Farmers and Graziers will see, by the Act 4th Anne, c. 8, s. 3, that Cattle unsold shall not pay any Toll whatever.

At

At the Fairs of Donnybrook in the City of Dublin, Kilcock in the County of Kildare, at Granard in the County of Longford, and in numberless other Fairs through this Kingdom, Cattle are charged both going in and coming out, and also very much overcharged, besides charging every article that is sold in the Fair, which is illegal.—Victuals, Wares, &c. are not liable to Toll.—(See Appendix.)

Toll in Fairs can only be demanded upon Corn and Cattle; yet in the Fair of Ardee in the County of Louth, Frizes were lately charged 10d. although the usual charge was only 3d. but the People having submitted to the charge of 3d. on each 20 yards of Frize, the Toll-farmers advanced their charge to 10d. It is not to be understood, that this charge of Toll upon Frize is the only charge in the Fair of Ardee, or the Fair of Mulaghecrew, and the Fairs and Markets of Dundalk in the County of Louth.

In the Fair of Parsonstown (or Birr) in the Queen's County, a man had his web of Woollen Cloth a short time ago seized for Toll. He brought an action against the Toll-farmer, who thereupon gave up the web to the owner; and in consequence of even so trifling an opposition, the charges in the Fair of Parsonstown are now more moderate than formerly. In many Fairs through the Kingdom, great complaints are made of the exorbitant charges. At the Fair of Fieldstown in the County of Dublin every thing is charged; and the poor People, to the very apple-women, are heavily charged for their standings in the Fair, which is contrary to Law, as every person has a right to a standing in every Fair or Market to sell their wares, without payment of any thing whatsoever for such standing.

The Act of 32d G. III. c. 29, gives the person illegally charged Toll a remedy against the City, by applying to the Lord Mayor for his Certificate, whether the Tollman acted under the authority of the Corporation or not.

The following Certificate was prepared by a Lawyer of great eminence at the Bar. His directions were to have two copies of it ready, and to tender one of them to the Lord Mayor—if he does not sign it, it will be a refusal, under the words of the Act.

CERTIFICATE.

CERTIFICATE.

“ I, the Right Honourable the Lord Mayor of the City of Dublin, do hereby Certify, that A. B. Collector of Tolls claimed by the Corporation of the City of Dublin, who, on the day of at seized the property of and detained same for Toll claimed as due and payable to the said Corporation, in so doing, acted under the authority of the Corporation of said City.—Dated this day of 1816.”

Then he may join the City Treasurer or Chamberlain in the action.

The swearing of persons leaving the Fair of Ballinasloe, is practised there probably to a greater extent than almost in all the rest of the Kingdom, false oaths in proportion.

It is lamentable to see the hundreds, if not thousands, who, without hesitation, take these false oaths. It is not thought any thing about, but regarded as a matter of course; the man tenders the oath, and the person takes it with much more indifference than would attend the paying and receiving one halfpenny.

The positive turpitude of such conduct is evident, the effect of it upon the moral habits of the People is injurious beyond exception. Many persons say, that the man who, without scruple, takes *this* false oath to escape payment of Toll for a Cow bought by him at the Fair, would nevertheless in other respects be perfectly honest and trustworthy. That in fact it is a forced oath—that it is taken without reflection. And what, say they, is a man to do, who having bought a Cow at a Fair, which Cow is to give milk to his children, has not wherewith to pay the Toll, is he, say they, to leave the Cow in the Fair. It is according to them merely a harmless deception to escape imposition.

It is the *duty* of the Magistracy to put an end to the practice; and I hope that some of the neighbouring Magistrates will act up to their duty, and by a timely interference put an end to this horrible immoral practice at Ballinasloe.

It is an indictable offence at common Law, but it is still more penal by the Act of Parliament, 27, G. III. c. 5, s. 6, in Appendix.—By that Act the offence of tendering such an oath is a felony, punishable with *transportation* for

for life; and the person who takes it is liable to transportation for seven years.

That Act of Parliament is made perpetual, by Act 40. Geo. III. c. 96, s. 11; and it is to be hoped that the Magistracy of the Country will not suffer it to remain a dead letter on the Statute Book. If they do, it will reflect discredit on themselves. They cannot plead ignorance for their forbearance. They are constantly in the Fair whilst it is practised, and the People must naturally suppose the practice *lawful*, or the *Magistrates* would not permit it.

I shall now enter into the nature of the Tolls demanded at this Fair, and shew the *legal amount* of Tolls at every Fair through Ireland; when they should be charged, and when *not*; also upon what goods, &c. Toll is payable, and upon what *not* payable.

The entire is applicable to *every Fair in Ireland*, as well as the extensive Fair of Ballinasloe, which I had chiefly in view.

The charges in this Fair for Toll are very great, viz.

Horses, each,	-	-	6d.
Cows, each,	-	-	4d.
Sheep, each,	-	-	1d.
Pigs, each,	-	-	1d.

In this Fair they do not charge Toll for Cattle until they are sold.

In many other Fairs in Ireland they charge for cattle upon going into the Fair before sold, and coming out when sold, which is contrary to the Act of Parliament, 4th Anne, c. 8, s. 3, which enacts, "*THAT in all cases where any Cattle shall remain unsold at ANY FAIR OR MARKET, that it shall be lawful for the owners or drivers thereof to carry away such Cattle as shall remain unsold, without paying any Toll whatsoever.*"

By this Act the penalty on the Tollman is 10s. for the first offence, and 5l. for the second and every other offence, to be recovered on complaint to a Magistrate within six days after the offence is committed. And if the Magistrate *neglects* or *willfully omits* to do his duty, he is liable to 20l. *penalty*.

In Dublin the uniform practice, until lately, *was* to charge for all Cattle coming in, and if not sold they were charged coming in again; but *now*, some persons refuse to pay the Toll coming in, and they are suffered to pass. Every day People are becoming better informed, and more determined

mined to resist extortion ; and in a short time every imposition as to Tolls in *Dublin* will be done away. The practice of collecting at the Toll-houses will be abandoned and confined to the Markets, which is the *proper place*, and in fact the only place where they can be *legally* demanded.

The Tolls on Cattle in Dublin are limited to the legal and proper standard, as set out in the Docket-sheet posted up, nevertheless, extortion has crept in there. This could never be the case if the Public would always stand firm to their rights, and only pay where and when they ought, viz. *in the Market and after the sale*.

The Tolls in Dublin upon Cattle are,

Every Bull, Bullock, or Cow,	-	1d.
Every Calf,	-	$\frac{1}{2}$ d.
Every Hog or Pig,	-	$\frac{1}{2}$ d.
Every Lamb,	-	$\frac{1}{4}$ d.
Every sucking Pig,	-	$\frac{1}{4}$ d.
Every Sheep,	-	$\frac{1}{4}$ d.

The above are the regular charges in the Docket, but imposition is nevertheless practised at the different Toll-houses, viz.—

At Donnybrook Toll-house the Toll-farmers charge for Lambs one halfpenny each, instead of one farthing each.

At Dorset-street Toll-house, they charge for Calves one penny each, instead of one halfpenny each.

At all the Toll-houses they charge for all Pigs one penny each, instead of one halfpenny, and a farthing for sucking Pigs.

I again remind the Public, that in Dublin many Graziers refuse to pay for their Cattle *coming in* ; this in the course of years will to many persons amount to a considerable sum, and probably in a short time such a reformation will be effected in the collection of Tolls, as totally to remove the grievance, and with the grievance the entire Toll, for in Dublin the legal Tolls would not be worth keeping men at the different Toll-houses in and about Dublin to collect them.

But to return to the subject of Fairs, and the charges made there upon persons selling their goods, many of which charges are quite illegal.

In the first place, by the Act of Parliament, 3d Geo. III. c. 34, s. 9, a man who brings into any Market or Fair, any Flax-seed or Hemp-seed, Flax, Hemp, or Cotton,

or

or any Cloth made of Linen, or Hempen, or Cotton Yarn, or Cloth made of Linen or Hempen Yarn, and Cotton mixed, Kelp or Pot-ashes, Wheels, Reels, Hackles, or Looms, shall not pay any Toll for them, nor for the passage of them over any Bridge, or through any City or place whatsoever, (turnpike gates only excepted); and the person who shall *demand*, exact, or take any Toll, Custom or Duty whatsoever, contrary to said Act, shall, for *every* such offence, forfeit 40s.—So that all a man has to do who brings such goods into the Fair, when required to pay Custom or Toll, is to inform the Toll-man, in presence of some person who can be a witness of his having so informed him, that his goods were Linen, &c. &c.; and if he, after such information, *demand*s the Toll, he is liable to the penalty of 40s. for *every* offence, even though the owner refuses and does not pay.

No Provisions, Wares, &c. are liable to Toll; so decided at Law.

At Ballinasloe and other Fairs, each bag of Wool is charged for Toll, and also for weighing and crane note. And at the big Fair of Mulachcrew, 2s. 6d. per bag is charged, whether large or small; this charge is a monstrous extortion.

Before saying any thing as to the amount of Toll which can be legally demanded at Fairs, I shall call the recollection of the Public to the exertions of one individual—the late Mr. John Stevenson, so lately effected at Naas in the County Kildare; he not only completely struck off the Toll above alluded to, upon Victuals, Wares, &c. which was there charged, but he also reduced the Toll charged upon Cattle in the Fair of Naas to the following sums, as in the underneath Copy of the Docket, which he procured to be there posted up in *legible characters*.

At the time of Mr. Stevenson's interference, Lord Mayo was Sovereign of Naas, to him Mr. Stevenson applied, and on his representation of the extortion practised at that Fair, Lord Mayo was induced to put a stop to further abuses; in consequence the following Docket was prepared and posted up.

Mr. Stevenson then brought his action against the Toll-farmers for charging him *five farthings* for five Noggins which he had bought, and bought for the express purpose of bringing that action—he got *Twenty-five Pounds* damages.

CORPORATION OF NAAS,

SEPTEMBER 29, 1812.

Sovereign of said Corporation for the Year ending September 29, 1812.

Docket of the Customs of the Corporation of Naas to be paid at the Fairs, as granted and established by the Charter, prescriptive and immemorial usage, posted, pursuant to the Statute, 1st Geo. III. c. 17, s. 25.

No Toll or Custom to be paid at any of the Markets.

Horses,	-	-	2d.
Cows,	-	-	2d.
Heifers,	-	-	2d.
Bullocks,	-	-	2d.
Lambs,	-	-	1d.
Calves,	-	-	1d.
Pigs,	-	-	1d.
Sheep,	-	-	1d.
Stalls or Stands,	-	-	6d.

N. B. Any person agrieved by the Toll-gatherers of Naas, the Sovereign will be at all times ready to give him his utmost assistance.

This alone would be an important benefit to the Public, but his active benevolence did not stop here; in fact, to him the Public are indebted for every correction of these abuses which have been effected in the City of Dublin.—The Author of the Letters, and of this Work, being first led to a consideration of the subject, by reading the little Pamphlet which Mr. Stevenson had printed, contains the Tolls of the City of Dublin, and being also assisted by many useful suggestions from Mr. Stevenson himself on the subject.

His death has been a great loss to Society, as they were deprived of a man of the most humane and honest disposition, joined to a persevering activity, which made him of great service to that Community who now enjoy the benefit of his exertions.

Previous to this time, viz. 1812, when Mr. Stevenson interfered, every thing sold in the Fair was charged Toll, down to the very *noggins*. Now it may be useful to compare the charges for Toll on Cattle in Dublin, at Naas, and at Ballinasloe. The Charges in Dublin are *as high as by Law can be demanded*. At Naas, the charges are double, at least, to what they are in Dublin.

At

At Ballinasloe the charges are still greater. I shall now proceed to shew what by Law is the *utmost* which can be charged.

A very small expence would set all to rights, as by searching for the Patents under which the Fairs are held, it would be seen what is the utmost of the Toll granted in each Patent. This could be done for a very trifling expence. The expence of searching in the Rolls for a Patent, and reading same, would not exceed a few shillings, and I conceive it well worth this to many individuals; and at every Fair they would thereby save what it may cost them to search for the Patent.

By Law the highest charge which can be taken for Cattle is 1d. each, but is sometimes less; and by Law Toll is only chargeable in Fairs and Markets upon live Cattle, and not upon Victuals, Wares, &c.

“Comyn’s Digest. Tit. Market, v. 4, p. 181.”

“By the Statute North. 2d Ed. III. c. 15, the Lord of a Fair, at the commencement of a Fair, shall publish for what time it shall continue, and shall not hold it beyond his due time, otherwise it shall be seized into the King’s hands.”

“The Duties usually paid at a Fair or Market are Toll, Stallage, Picage, &c.”

“Toll is not incident to a Fair or Market; and therefore a grantee shall not have Toll without a special grant, 2 Inst. 220, 716, in Marg, R. Cro. Eliz. 558, 592. Mo. 474. R. Palm. 77, 86.”

“And therefore, it is not sufficient to allege the grant of a Market, with all Tolls belonging; but there must be alleged an express grant, or a prescription for Toll. Lut. 1380.”

“So the King cannot grant a Toll for goods not brought to the Market. Lut. 1502.”

“So, regularly, Toll shall not be paid before the sale, for it is due from the buyer, not the seller. 2 Inst. 221. R. Lut. 1336.”

“If a man takes outrageous Toll, he does not forfeit the Market, but the Toll only. The Stat. W. I. 31, says, ‘That the King shall seize the Franchise of the Market into his hands;’ but that is, till it be redeemed. 2 Inst. 221, R. that the Toll only is forfeited. Pal. 32. Quo. W. Treby. 37.”

“If

“If the Toll granted be unreasonable, the grant will be void. 2 Inst. 220. Cro. Eliz. 558.”

“*Toll* is a reasonable sum due to the Lord of the Fair, or Market, for things sold there, which are *Tollable*. 2 Inst. 220.”

“Toll, by common right, shall be *only* upon a sale of *live Cattle*, not of Victuals, Wares, &c. R. Mo. 474.”

“The *Mirror* says, that a halfpenny shall be taken of goods of 10s. *et sic pro rata*, so that no Toll exceeds a penny. 2 Inst. 222.”

“And therefore, *above a penny* is an unreasonable Toll, Mo. 474.”

The above Law Authorities shew what Toll is to be paid. They are express, and unquestionable. The authorities which I have recited to shew that live Cattle only are liable to Toll, and not Victuals, Wares, &c. viz. R. Mo. 474, was in a very late case in Belfast, cited by Counsellor Holmes as the Law now in force, and was by Baron McClelland admitted so to be.

There are also many cases of exemption as set out in many parts of this Treatise.

Every Freeman of Dublin is free from all Toll upon Cattle or goods bought or sold in any Fair or Market throughout Ireland; so is every Freeman of London.—The Freemen are also free on passing any Corporation Bridge or Ferry, either in Dublin or Derry, &c.

At the Bridge of Derry some years ago, a poor man who carried his shoes in his hand, as is the frequent practice with poor people travelling, was charged additional Toll for passing the Bridge, as if he had been carrying a load.

Every word here equally applies to all the Fairs and Markets in the Kingdom, in all of which great impositions are practised.

The charges made for Toll at the Fairs and Markets in Clonmell in the County of Tipperary, are very much complained of by the Country people. I therefore repeat, that *every word* respecting Fair, applies equally to the Fairs at Clonmell, Strabane, &c. &c. as to those at Ballinasloe.

At the other Fairs in every part of Ireland the People are beginning to dispute the payment of these Tolls.

At last Donnybrook Fair, Dublin, on 26th August, 1816, Tolls were charged illegally and exorbitantly; the Public, however, will not pay the next Fair.

I have

I have thus shewn that the Tolls charged at these Fairs are extravagantly great, and downright extortion. I have also shewn what is the proper sum to be paid, which sum only, and not more, can be legally demanded; and *as to the mode of redress*, it remains to be observed, that upon the owner tendering the legal Toll to the Toll-gatherer, if he refuses to take it, and to attempt to seize the goods or stop the Cattle, or to obstruct the owner, and prevent his bringing them out of the Fair, the owner may resist him, and take his goods and Cattle away, and may afterwards prosecute the Toll-gatherer for the obstruction.

I am the more particular on this part of the subject, because *even in Dublin, until lately*, the People erroneously imagined that they must submit to the Toll-man's demand.

This erroneous idea of the Toll-men having an authority which the People must submit to, arose very much from seeing them swearing persons in Dublin as at the Fairs; for the poor man conceived them to be like *petty* Magistrates, or else they could not have authority to administer an oath.

The idea will be at once removed when they understand that the Toll-man who administers that oath, is liable *to be transported for life*, no matter in what way he tenders the oath, either by *throwing the book on the ground*, or by *forcing* the person to swear.

CHAPTER

CHAPTER VI.



IN the Appendix will be found the Act 4th Anne, c. 11, respecting the sale of Horses at Fairs. Its importance to every person who buys or deals in Horses will be manifest upon reading the Act itself. Persons who pay large prices for them at Fairs and Markets, are frequently exposed to the loss of the Horses from the non-performance of the requisites set down, both on the part of the seller and purchaser in that Act; by which it is enacted, "That the sale in any Fair or Market, overt, of any Horse stolen, or feloniously taken away, shall not alter the property unless said Horse shall in the time of said Fair be openly exposed one hour, between ten in the morning and sunset, in the place wherein Horses are commonly sold, and not in any house, yard, or other private place, and unless all the parties come together before the book-keeper, and bring the Horse at same time, and there enter their names and dwelling-places, with the colour, and one special mark at the least of the Horse in the keeper's book. And it also enacts, That no person shall, in any Fair or Market, sell, give, exchange or put away any Horse, unless the book-keeper or chief officer of the same Market or Fair takes upon him perfect knowledge of the vendor, and enter his knowledge in said book—or else, that the vendor shall bring to the book-keeper one credible person, who shall testify unto, and before such book-keeper his knowledge of vendor, and enter in such book the name, mystery, and place of residence of such person of the vendor; and that no book-keeper shall enter such sale unless he knoweth the vendor or party who shall so vouch, and that such book-keeper or other person, shall give the buyer, requiring and paying 3d. for the same, a note in writing of all the full contents of the same. And every sale-gift, exchange, or other putting away of any Horse in Fair or Market, not used in all parts according to the true meaning of said Act, shall be void."

The sale being void, the original owner might at any distance of time seize his Horse, and the buyer could only resort for his money to the person from whom he bought it.

The

The observations in 2, Blackstone's Commentaries, page 450, on this point, are peculiarly worth attending to, and will convince the Public how much they have been hitherto in error, in respect of the sale or purchase of Horses at Fairs. He commences thus, page 449, "And for this purpose the *Mirror* informs us, (c. 1, s. 3,) were *Tolls* established in Markets, viz. *to testify the making of contracts*; for every private contract was discountenanced by Law. Whereupon our Saxon ancestors prohibited the sale of every thing above the value of 20d. unless in open Market; and directed every bargain and sale to be contracted in the presence of a credible witness," (L. L. Ethel. 10. 12. L. L. Eadg. Wilk. 80.)—He then says, page 450, 451, "But there is one species of personal chattles in which the property is not so easily altered by sale, without the express consent of the owner, *and those are Horses*; the sale of which, even in Fairs and Markets, overt, is void in many instances where that of other property is valid: because a Horse is so fleet an animal, that the stealers of them may fly far off in a short space.—(2. Inst. 714,) and be out of the reach of the most industrious owner. All persons therefore, who have occasion to deal in Horses, and are therefore liable sometimes to buy stolen ones, would do well to observe, that whatever they may give, or how longsoever they may keep possession before it be claimed, they gain no property in a Horse that has been stolen, unless the directions be pursued that are laid down in the Statutes, 2. P. and M. c. 7, and 31, Eliz. c. 12. By which it is enacted, that every Horse to be sold shall be openly exposed in the time of such Fair or Market for one whole hour together, between ten in the morning and sunset, in the open and public place used for such sales, and not in any yard or stable; that the Horse shall be brought by both the vendor and vendee to the Toll-gatherer or book-keeper of such Fair or Market; that Toll be paid *if any be due*; and if not one penny, (*in Ireland three pence*) to the book-keeper, who shall enter down the price, colour and marks, with the names, additions, and abode of the vendee and the vendor, the latter either upon his own knowledge or the testimony of some credible witness."—"But in case any of the points before-mentioned be omitted, or not observed in the sale, such sale is utterly void, and the owner shall not lose his property, but at any distance of time may seize or bring

bring an action for his Horse wherever he happens to find him. Wherefore Sir Edward Coke observes, (2, Inst. 719), that both by the common Law and these two Statutes, the property of Horses is so well preserved, that if the owner be of capacity to understand them, and be vigilant and industrious to preserve the same, it is almost impossible that the property of any Horse, either stolen or not stolen, should be altered by any sale in Market overt by him that is *malæ fidei possessor*."

The circumstance of the English Acts containing the expression, "If Toll due," "and if not, one penny to be paid to the book-keeper"—tends very much to confirm what I have before stated, and what is laid down by the Judges of the King's Bench, Cro: Eliz. 558—591, viz.—"That Toll is not incident to a Fair, and that the greatest part of the Fairs in England have not any Toll."—Probably if the right to Toll was investigated in Ireland, very many would be found not to have Toll.

The Act, 25th H. VI. c. 3, confines the taking of Toll to *within* Boroughs or Market-Towns, and Cities, and further restricts them by these words, "*As they have power and sufficient authority to take and levy such Customs*;" for without these words the Corporation would claim Toll upon all goods "bought or sold, or brought to be sold;" but the Act itself furnishes the answer to such assertion, viz. "as they have power and sufficient authority to take and levy such Customs," and then it stands thus:—When entitled to Toll, they are prohibited from taking it any where but within the City. But this Act gives them no new authority, no additional rights; it is for the protection of the subject against the encroaching extortion of Corporations; more effectually to provide against these extortions, the Act, 32d Geo. III. c. 29, was made in aid of 25th H. VI. so that now the man from whom the Toll is illegally demanded, or who is attempted to be overcharged, has a variety of remedies: He may resist and force his way. He has a further remedy, by action at Law for the detention; and by 32d Geo. III. c. 29, he may join the City Treasurer in any such action, and so is secure. He may replevin the goods—he may pay and then recover back the money which he has paid wrongfully for the last six years, in an action for money had and received—he may indict the Toll-man for extortion, and he also who assists is equally guilty, for there are no accessories in extortion, and he
may

may proceed under the Acts of 25th Henry VI. and 32d G. III. to recover 20s. for each penny paid ; he may, under 3d Edw. I, attain the City of extortion, and deprive them of the right of Tolls ; and in all these cases the labour of a defence is thrown upon the Toll-gatherer, for the person charged has only to prove that he had paid such a sum for Toll, and the Toll-gatherer must shew a clear right to demand it.

But nothing would so effectually put an end to the impositions, as for the owner of the goods on all occasions where an overcharge is attempted, to resist by force, and in spite of the Toll-men.—For the Public may be assured, that the Toll-men are by this time well aware that the City cannot afford them protection.

Upon Corn Toll is by right only payable upon Market-days, and in the market, and the amount is only one sealed quart struck of Winchester measure, out of every barrel of wheat, Rye, Bere and Barley, and three pints struck out of every barrel of other grain.

The Resolutions of the House of Commons, (see Appendix,) as to the Toll on Corn, are well worth carefully reading and attending to by every person in the Corn-trade.

In Drogheda Meal is only charged an halfpenny the barrel Toll, whereas in *Dublin* it is charged 5d.

The Higglers who go round the Country gathering Eggs and Fowl to bring to the Dublin market, are charged exorbitantly.

Upon such a body it never was the intention of the Legislature to levy contribution for individual, or corporate aggrandizement ; and in fact, there are express Law Authorities in the books forbidding it.—*Viner's Ab. Tit. Toll.* “ Hens, Geese, and many more such things are not liable to Toll, *per Clench. Ow.* 109 *Trin.* 36, *Eliz.* B. R. *Escot v. Senery.*”

Also by Law provisions are not liable to Toll, “ *Comyn's Digest*, v. 4. p. 183, *Tit. Market.*” “ And by common right Toll shall be only on a sale of live Cattle, *not of Fictuals, Wares, &c. R. Mod.* 47+.”

Nevertheless these Higglers are charged without remorse or dread, for they are too poor to be feared. The City, by their own Docket, only claim “ of every Horse-load of Eggs, 1d.” It were scarcely credible that the Toll-farmers actually charged 1d. for each hundred in number.

It is computed that a sum not less than 40,000*l.* of *illegal excess* is yearly raised under pretence of Tolls and Customs.

The followiag notices published and circulated, the one by the Factors in the Kevin-street markets, and the other by the persons engaged in and connected with the trade to the North, are of considerable use; many persons in consequence of the publicity which these notices gave to the illegality of the charges, refused to pay.

Tolls and Customs of the City of Dublin.

The Factors of the markets in Kevin-street, give this notice,

THAT by the Act of Parliament of 4th Anne, c. 8, no Toll or Custom is payable on Hay, Straw, Bacon, Butter, Corn, Potatoes, Cattle, Fowl, or Eggs, *or any thing else* coming to Kevin-street markets, whether passing through Dublin or not, by the Custom-gates or Toll-houses, at

Ballybough-bridge,	Dorset-street,
Constitution-hill, or	Barrack-street,
Broad-Stone,	James's-street,
Ball's-bridge,	New-street,
Dolphin's-barn,	Portobello,
Donnybrook-road,	Stoneybatter,

Or at any other Toll-house or place in Dublin or Ireland.

Nor is any other Toll or Custom payable upon goods for private use. By said Act of Parliament, no Toll or Custom is payable upon Cattle in Smithfield until they are sold. And by Section 3 of said Act of Parliament, it is enacted, "*That in all cases where any Cattle shall remain unsold at any Fair or Market, that it shall be lawful for the owners or drivers thereof, to carry away such Cattle as shall remain unsold, without paying any Toll whatsoever,*" so that it is *unlawful* to charge Custom on the Cattle going into any Fair in Ireland.

N. B. If any Toll-man attempts to stop the Cattle or goods he may be resisted, and the owner force his way.

Drogheda and Dublin Tolls and Customs.

Notice is hereby given to all Carriers, &c. on the northern roads, That *no Toll* can by Law be demanded or charged on any Cattle or goods whatsoever, passing in or out of the Toll-houses in Dorset-street, New-street, or Portobello,

bello, which are in the County of Dublin.—Also, that by the Act of Parliament of 25th Henry VI, c. 3, there is a penalty of 20s. for every penny which shall be taken or levied there.

And that by the Act of Parliament of 3d Geo. III. c. 34, *no Toll* is payable upon any Flax-seed or Hemp-seed, Flax, Hemp or Cotton, or any Cloth made of Linen or Hempen Yarn and Cotton mixed, Kelp or Pot-ashes, Wheels, Reels, Hackles or Looms.—And there is a penalty of 40s. on any Toll-man for charging or *even demanding* Toll thereon—So that charging Toll on *Printed Calicoes* passing through Drogheda is unlawful.

Also that the charge of 6d. on each dray-load of goods passing through Drogheda (by the Act of Parliament of 4th Anne, c. 8.) is *unlawful*, and by that Act there is a penalty on the Toll-men of 10s. for the first offence, and 5l. for every second or other offence, of charging such Toll.—Said penalties to be recovered upon complaint within six days before a Magistrate.

And that *in any case* of attempting to charge unlawful Toll, *in Town, Fair, or Market*, the owner or carrier of the goods or Cattle may resist the Toll-men *by force*, and if the Toll-men attempt to stop him, *force his way*, and afterwards prosecute the Toll-men.

For *swearing in Fairs* the Toll-men who tender the oath, are (by the Act of Parliament) liable to be transported *for life*, and the person who is sworn is liable to be transported for seven years.

22d February, 1817.

Nothing but an express grant or prescription will entitle the Corporation to take Toll, and no custom will justify them.—Many conceive that Toll may be payable from *long usage*, and so become payable by custom. This is not the fact, no custom will justify taking Toll—no length of time will justify any extortion; and the person acting according to such custom would be liable to indictment for extortion, and to a Civil Action for the injury. The case which I shall quote as my authority is *Holloway v. Smith*, 2 Strange's Reports, 1171.—(See Appendix.)—"That Toll was not incident to a Fair," and so that no custom would warrant the demand.

It is to be observed, that there is no prescription or custom in Dublin, or Ireland—"For such custom must be
time

time out of mind used, which custom none can challenge that claim the Fair or market by grant, within the time of memory, viz since the reign of Richard the 1st.—“*Viner’s Ab. Tit. “Toll,” v. 20, p. 288, cites 2, Inst. 221.*”—(See Appendix.)

So that the Corporation of Dublin, &c. &c. must in Ireland produce an express grant from the Crown by Charter or Letters Patent, to entitle them to take Toll; and such grant of Toll must be reasonable, for if unreasonable the entire grant would be void.

An attentive reading of the different Acts of Parliament will afford very useful information. They are plain, simple, and very readily understood. The cases in the Appendix are principally selected from Comyn’s Digest, Viner’s and Bacon’s Abridgments, and are of the first authority. The Resolutions of the House of Commons are particularly applicable to the present subject, for they took their rise out of the exactions then practised in the City of Dublin, but which at that day were trifling in comparison with the present exactions.

These extortions have frequently been the subject of complaint to the Irish Parliament. Investigations have taken place, and the persons who so extorted have been brought as delinquents to the Bar of the House in custody of the Serjeant at Arms, and committed to Newgate for their misconduct. A Petition should now be presented to Parliament, praying for the total abolition of Tolls all over the Kingdom. If the subject were once referred to a Committee, there cannot be a doubt but the justice and policy of such a measure would appear manifest, and thus the entire grievance be removed at once without danger of its renewal.

Whenever Toll is charged at any of the Toll-houses or places, which are in the County of Dublin, viz. Dorset-street, New-street, Mespil-bank, Ballybough-bridge, Portobello, a summons can be had from the Seneschal of the Manor wherein that Toll-house is situate to recover the money paid, and a few persons doing so would contribute to stop these extortions.

But the cheapest, most effectual, and advisable cause for the Public, when Toll is overcharged, or when charged where none is payable, or at a place where, by Law, it is illegal to collect it, as at any of the Toll-houses which are in the County of Dublin, is, in all these cases, to refuse paying,

paying, and to resist with such a determination, as will shew the Toll-man that they are resolved not to submit.— This removes the grievance at once, without trouble or expence, and will prevent the attempt being renewed.

The Corporation would sooner twenty Civil Actions were brought against them than one Criminal one, for the trial coming before the Recorder, his opinion would be public and decisive ; but where actions are brought, judgment is suffered to go by default, and so the Public hear nothing about them, and the extortion goes on.

The action brought by Messrs. Pilsworth against the Corporation of the City of Dublin, for taking Toll of Corn, &c. by force—(See Appendix),—is one of very considerable interest. It involved many questions—the goods were for private use—the goods were not in the market—neither was it on a market day. A full report of this case is inserted in the Appendix ; it therefore only remains to make a few observations upon the conduct in this affair of the Corporation, and those acting under them.

Mr. Pilsworth offered to leave the question in dispute between them, which was—"Whether the City were entitled or not to the Toll they claimed," to the decision of any two Lawyers of eminence, of whom the present Recorder of the City of Dublin should be one. This offer was refused, and Mr. Pilsworth still continuing to refuse payment of the Tolls demanded of him, the then Toll-farmers, with, as it afterwards appeared, the full approval of the persons who conducted the City affairs, stationed a party of men upwards of twenty in number, who, in the most outrageous manner, stopped the Corn by force and took out the Toll. This conduct of the Toll-farmers received the thanks of the Corporation through their organ, called "The Law Committee."

But the verdict of a respectable Jury have stamped the act as illegal, and have given 50*l.* damages for the outrage.

It may here be right to observe what might have been the consequence of that outrageous attack, had the owners of the goods resisted the aggression—had they encouraged the Canal boatmen to take summary vengeance upon the Toll-men, lives would possibly have been lost on the one side or the other. And if that had been the case, in what situation would the Toll-men have stood?—if they lost
their

their lives, the party resisting would perhaps have been found guilty only of manslaughter, or perhaps only of justifiable homicide—whereas, in the Toll-men it would be **MURDER** in them all, in contemplation of the illegality of the attempt in which they were then engaged. And I assert, that the Corporation influence would not be able to save them from the hands of justice. Their conduct has been so notoriously extortionate, so violent and overbearing towards all the poorer classes, that mercy to them would be injustice to the Public.

Let them consider this—let them reflect on the illegality of their own conduct, and how much exposed they are to the dangers of a violent resistance. For they may depend upon it that the spirited exertions of the Messrs. Pilsworth will have the desired effect; and that all persons who can, will henceforward resist their illegal demands.

The Corporation have been very indignant at the different Newspapers calling their conduct *Public robbery*; but they have not as yet shewed that they had a right to the Tolls which they charged, and certainly if they have no right, such charge is *robbery* at the least, but it has been shewn to be worse, and to be in contemplation of Law **MORE ODIOS THAN ROBBERY**. 1 *Plowden*, 68, which the Public are perfectly justified in resisting.

FINIS.

APPENDIX.

- I. *Acts of Parliament on Tolls and Customs.*
 - II. *Resolutions of the Irish House of Commons.*
 - III. *Adjudged Cases and Law Authorities.*
 - IV. *The Docket of the City of Dublin Tolls and Customs, and Market Dues.*
-

I.

ACTS OF PARLIAMENT.

(1.) 3d EDW. I. c. 31. (ENGLISH AND IRISH.)

IF any person take outrageous toll contrary to the common custom of the realm in market towns, if it be the King's town which is let in fee farm, the King shall seize into his own hand the franchise of the market; and if it be another's town and the same be done by the lord of the town, the King shall do in like manner; and if it be done by a bailiff without the commandment of his lord, he shall restore to the plaintiff as much more for the outrageous taking as he had of him; if he had carried away his toll and shall have forty days imprisonment, touching citizens and burgesses to whom the King or his father has granted murage to enclose their towns, which take such murage otherwise than as it was granted unto them; and of this are attainted they shall lose their grant for ever, and shall be grievously amerced.

(2.)

25th H. VI. c. 3.

AN ACT,

That none shall take custom but *within* cities, boroughs, or merchant towns, *where there is authority* to take customs. Rot. Parl. cap. 17.

Also at the request of the Commons for that many people of this land of Ireland do take and levy sundry customs of merchants

chants passing and going with their merchandise through the King's highway, against right and reason. It is ordained and agreed by the authority of this present parliament, that no man be so hardy henceforward, to take or levy, or cause to be taken or levied, any such custom of merchants, or of other people, in the King's highway or elsewhere, but within cities, boroughs, or other merchant towns, where the said merchandises be bought or sold, or brought to be sold there, *as they have power, and sufficient authority to take and levy such customs.* And if any do the contrary, and thereof be attainted, he shall be constrained and compelled by authority of this same parliament, to pay for every penny so taken or levied, twenty shillings, whereof the King shall have the two parts, and he from whom the said custom shall be so taken shall have the third part.

—ooo—

(3.)

4th ANNE, c. 8.

CLAUSES OF AN ACT

To regulate the taking and exacting tolls throughout this Kingdom, and to prevent engrossing coals in the city of Dublin.

Whereas, the exacting and receiving toll for any sort of goods or cattle droven or carried through any city, corporation, market town, or other place within the realm, where such city, corporate, or market town, at their own costs and charges, do not keep up and repair some public bridge or bridges, over which such goods or cattle shall be droven or carried, is greatly prejudicial to the subjects of this realm, and a discouragement to trade in general. For remedy whereof, be it enacted, &c. that from and after the 24th day of June, in the year of our Lord, 1705, no toll shall be demanded or received by any body politic or corporate, or other person or persons, for any cattle, goods, or merchandises whatsoever, that shall be droven or carried into, or through any city, borough, market town, or other place where the same shall not be sold, consumed, or slaughtered,

2. Provided always, that where any person or persons, or bodies politic, heretofore lawfully could demand or take any toll for any cattle or other goods, driven or carried over any bridge or bridges, for or in respect of such person or persons, or body politic, being obliged at his or their own costs and charges, and not at the costs and charges of any county, county of a city, or county of a town, to keep such bridge or bridges in repair; that in such case, such person or persons, or body politic, may receive and take such reasonable toll for such cattle

cattle or goods driven or carried over such bridges, as he or they might have done by law before the passing this Act, and not otherwise.

s. 3. And be it further enacted, by the authority aforesaid, that in all cases where any cattle shall remain unsold, at any fair or market, that it shall be lawful for the owners or drivers thereof, to carry away such cattle as shall remain unsold, without paying any toll whatsoever.

s. 4. And be it further enacted, by the authority aforesaid, that in case any body, politic or corporate, or other person or persons whatsoever, shall presume to take, demand, or collect any toll contrary to this Act, that every such offender shall forfeit for the first offence the sum of ten shillings, to be demanded before a Justice of the Peace within six days after such offence is committed; and for the second, and every other offence after conviction, the sum of five pounds to be demanded also within the time aforesaid; one moiety thereof to the party injured, and the other moiety for the use of the poor of the parish wherein such offence shall be committed; to be recovered by distress and sale of the offender's goods, on conviction before any one or more Justices of the Peace of the county wherein such offence shall be committed, by confession of the party offending, or by oath of two credible witnesses, to be taken before such Justice of the Peace, who is hereby empowered and required to administer such oath, and to hear and determine such complaint. And in case any Justice of the Peace to whom such complaint shall be made as aforesaid, shall refuse or wilfully neglect to put this Act into execution, according to the true intent and meaning hereof, every such Justice of the Peace shall for every such neglect or refusal forfeit the sum of twenty pounds; the one moiety thereof to her Majesty, her heirs and successors, and the other moiety to the party grieved; to be recovered by bill, plaint, or information, in any of her Majesty's courts of record, in which no essoin privilege or protection, nor more than one imparlance shall be allowed.

s. 5. And for preventing all frauds and deceits that may be practiced by such persons who shall drive or carry away cattle, goods, or merchandise, into any city, borough, or town corporate, and shall there refuse to pay the accustomed toll, under pretence that such cattle, goods or merchandises are only to be driven through such city, borough, or town corporate, and shall after sell or dispose of all or any part of such cattle, goods, or merchandise in such city, borough, or town corporate, be it enacted by the authority aforesaid, that every such person or persons who shall offend therein, shall for

the first offence forfeit ten shillings, being duly convicted thereof before any one Justice of the Peace or chief Magistrate of such city, town, or borough wherein such offence shall be committed; and for every second and other offence that shall be committed after such conviction as aforesaid, the party so offending shall forfeit the sum of five pounds, to be recovered and levied as aforesaid.

—000—

(4.)

4th ANNE, c. 11.

AN ACT

Against horse-stealing, and to prevent the buying and selling of stolen horses, and for punishing all accessaries to Felons:

For preventing horse-stealing, which is now grown so common, as neither in pastures nor closures, nor hardly in stables, the same are free from stealing; which is occasioned by the ready buying of the same by several persons in open fairs or markets, far distant from the owner, and with such speed, as the owner cannot by pursuit possibly help the same. For remedy whereof, be it enacted by, &c.—that the proprietor, farmer, or chief keeper of every fair and market overt within this realm, shall, before the 25th day of December, 1705, and so yearly, appoint and limit out a particular and certain open place within the town, place, field or circuit, where horses, mares, geldings, colts and fillies have been, or shall be used to be sold in any fair or market overt, in which said particular and certain open place aforesaid there shall be by the proprietor, farmer, or keeper of the said fair or market, put in and appointed one sufficient person or persons to take toll, and to keep the same place from ten of the clock before noon until sun-set every day, of the aforesaid fair and market to enter the sale, gift or exchange of every horse, mare, gelding, colt, or filly, sold, exchanged, or put away in every of the said fairs or markets, upon pain to lose and forfeit for every default the sum of twenty shillings; and that on the bargain, exchange, gift, contract, or putting away of every such horse, mare, gelding, colt, or filly, so sold, exchanged, or put away in any fair or market as aforesaid, within this realm, all the parties making the bargain, exchange, gift, contract, or putting away of every such horse, mare, gelding, colt, or filly, shall be present; and also the same horse, mare, gelding, colt, or filly, so sold, exchanged, given, or put away, shall be produced before such person deputed and appointed

as aforesaid; and when they are all present, and not before, such book-keeper, toll-keeper, or other person shall write, or cause to be written, in a book to be kept for that purpose, the names, sir-names and dwelling-places of all the said parties, and the colour, with one special mark at least, of every such horse, mare, gelding, colt, or filly, on pain to forfeit at and for every default contrary to the tenor hereof, twenty shillings; and that the said person or persons so deputed or appointed to be keeper of the said book, shall within one day next after such fair or market, bring and deliver his said book to the proprietor, farmer, or chief keeper of the said fair or market, who shall then cause a note to be made of the true number of all horses, mares, geldings, colts and fillies, sold, exchanged, given, or put away at the said market or fair, and shall there subscribe his name or set his mark thereunto, on pain on every default therein, to forfeit twenty shillings:

s.2. And be it further enacted by the authority aforesaid, that the sale, gift, exchange, or putting away, after the twenty-fifth day of December, 1705, in any fair or market overt, of any horse, mare, gelding, colt, or filly that is or shall be stolen, or feloniously taken away from any person or persons, shall not alter, take away, or change the property of any person or persons to or in any such horse, mare, gelding, colt, or filly, unless the said horse, mare, gelding, colt, or filly shall in the time of the said fair or market wherein the same shall be so sold, given, exchanged, or put away, openly ridden, led, walked, droven, or kept standing, by the space of one hour together, at least betwixt ten of the clock in the morning and the sun setting, in the open place of the fair or market wherein horses are commonly used to be sold, and not within any house, yard, backside, or other private or secret place, and unless all the parties making the contract, bargain, gift, or exchange in the said fair or market shall come together, before such book-keeper, and also bring the horse, mare, gelding, colt, or filly, so sold, exchanged, given, or put away, at the same time before such book-keeper, as aforesaid, to the open place appointed for the book-keeper, and there enter, or cause to be entered, their christian names, sir-names, dwelling-places, in manner aforesaid, with the colour, colours, and one special mark at the least, of every the same horses, mares, geldings, colts, or fillies in the keeper's book for that purpose as aforesaid, and that no person, after the said twenty-fifth day of December, 1705, shall in any fair or market sell, give, exchange, or put away any horse, mare, gelding, colt, or filly, unless the book-keeper or chief officer of the same market or fair, shall and will take upon him perfect knowledge of the person that so shall sell, or offer to sell, give, or exchange any horse,

horse, mare, gelding, colt, or filly, and of his true christian name, sir-name, and place of dwelling or residence, and shall enter all the same, his knowledge, in a book there kept for the sale of horses; or else, that he so selling, or offering to sell, give, exchange, or put away any horse, mare, gelding, colt, or filly, shall bring to the book-keeper one sufficient and credible person that can, shall, and will testify and declare unto and before such book-keeper, that he knoweth the party that so selleth, giveth, exchangeth, or putteth away such horse, mare, gelding, colt, or filly, and his true christian name, sir-name, mystery, and dwelling place, and there enter, or cause to be entered in such book, as well the true christian name, sir-name, mystery, and place of abode, dwelling, or residence of him who so selleth, giveth, exchangeth, or putteth away such horse, mare, gelding, colt, or filly, and that no book-keeper, or other person employed in that service, shall enter any sale, gift, exchange, or putting away of any horse, mare, gelding, colt, or filly, unless he knoweth the party who so selleth, giveth, exchangeth, or putteth away such horse, mare, gelding, colt, or filly, and his true christian name, sir-name, mystery, or place of his dwelling or residence, or the party who shall so justify or avouch, as is herein before enacted; and such book-keeper or other person shall give to the person so buying, or taking by gift or exchange such horse, mare, gelding, colt, or filly, requiring and paying three pence for the same, a true and perfect note in writing of all the full contents of the same, subscribed with his hand, upon pain that the person making any untrue testimony or avouchment in the behalf aforesaid, and every person so selling, giving, exchanging, or putting away any horse, mare, gelding, colt, or filly, without being known to the book-keeper or other officer aforesaid, or without bringing such a voucher or witness, causing the same to be entered as aforesaid, and every book-keeper, toll-keeper, or other officer of fair or market neglecting to do his duty, shall severally forfeit for every such default the sum of twenty shillings; and also every sale, gift, exchange, or other putting away of any horse, mare, gelding, colt, or filly, in fair or market, not used in all points according to the true meaning of this Act, shall be void; the said several penalties to be recovered before the Justice and Justices of Assize in the several places where they sit; and where they do not sit, then before the Justices of the Peace at their several quarter sessions, and levied by their respective warrants by distress on the goods of every person making default, and sale of such goods, returning the overplus, if any, to the party so distrained.

s. 3. And be it further enacted by the authority aforesaid, that the Judge and Judges of Assizes, in their several and respective circuits, and the Justices of the Peace of every other place and county where the Judge or Judges of Assize do not sit, shall respectively have authority in their respective Assizes and Sessions, within the limits of their authority and commission, to inquire, hear, and determine all offences against this Statute.

s. 4. And be it further enacted by the authority aforesaid, that all the penalties in this Act shall be one half to the poor of the parish where the offence is committed, or other public work, as the said Judge or Judges of Assize, and Justices of the Peace in their said Sessions shall respectively order; and the other moiety to the person who will sue for the same before such Judge or Judges of Assize, or Justices of the Peace at their Sessions aforesaid.

s. 5. And for as much as buyers and receivers of stolen goods and chattels do oftentimes harbour, convey away, and conceal the principal Felons, so that they cannot be convicted of such principal felonies, and thereby such buyers and receivers and other accessaries to such felonies, have escaped all manner of punishment, which hath greatly encouraged the buying and receiving such stolen goods and chattels; for remedy whereof be it therefore enacted by the authority aforesaid, that from and after the said twenty-fifth day of December, 1705, it shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods or chattels, knowing the same to be stolen, or that shall otherwise be accessory to such felony before or after the fact, as for a misdemeanor to be punished by fine and imprisonment, although the principal Felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessory, if the principal shall be after convicted.

s. 6. And be it further enacted by the authority aforesaid, that if any harbourer of any Felon shall discover and prosecute any two or more such harbourers, so as they shall be taken, and shall be convict of harbouring as aforesaid at the prosecution of such discoverer, that then such harbourer so discovering and prosecuting shall, by virtue of this Act, be pardoned and acquitted for his former crimes of harbouring only; any thing in this Act to the contrary notwithstanding. This Act to continue in force for five years, and from thence to the end of the then next Session of Parliament, and no longer.

Made perpetual by 6th Anne, c. 12.

4th ANNE,

(5.)

4th ANNE, c. 14.

CLAUSE OF AN ACT

For regulating the Weights used in this Kingdom, and that salt and meal shall be sold by Weight.

s. 3. And be it enacted by the authority aforesaid, that before the first day of November. 1705, there shall be appointed in every city, borough, or market town within this Kingdom, by the chief Magistrate of the same, except in places where the tolls and customs belong to any other person, and in such case by the person or persons to whom the toll or customs of such city, borough, or market town doth belong, one honest and discreet person who shall be weigh-master in the said city, borough, or market town, who shall be sworn justly, truly, and indifferently to weigh all goods, wares, and merchandises as shall be brought unto him between buyer and seller; for the doing whereof, he shall and may take and receive for every draught weighing under a hundred weight, a halfpenny; and for every draught weighing one hundred pounds and upwards, one penny.

—000—

(6.)

25th G. II, c. 15.

CLAUSES OF AN ACT

For buying and selling of all sorts of corn and meal, and other things therein mentioned, by weight; and for the more effectual preventing the frauds committed in the buying and selling thereof.

s. 5. And for the more easy weighing of corn in the city of Dublin, and in other cities and market towns within this Kingdom, be it enacted by the authority aforesaid, that the chief Magistrate of the city of Dublin shall, at the expence of the said city, before the said first day of August, 1752, erect four sufficient beams, with proper scales thereunto, and a competent set of weights, made of iron and sealed by the proper officer for weighing corn, in such convenient place or places within the corn markets of the said city: and two or more such beams, scales, and weights on Aston's-quay, within the said city, for weighing all sorts of corn; and from time to time to keep the same in good and sufficient repair for weighing with; and for the use of which no greater prices shall be paid or taken, than in this Act are hereafter expressed and appointed, under one hundred pounds penalty each term.

s. 6 Enacts,

s. 6 Enacts—that in the cities and towns of Cork, Waterford, Limerick, Belfast, Londonderry, Newry, Sligo, Galway, Drogheda, Dundalk, Wexford, Navan, Athy, Naas, Lisburn, Clonmell, Ross, and Youghall, and all the other market towns in this Kingdom, the chief Magistrate for the time being, shall provide one or more just and true balance or iron beam, with scales, and a competent set of weights made of iron, under fifty pounds penalty every Assizes.

s. 7. Provided always, that for weighing corn or things at such scales, *no more shall be paid than one halfpenny for every draught weighing under one hundred, and one penny for every draught weighing one hundred or upwards.*

s. 12. And whereas the custom of selling potatoes by measure hath been found very inconvenient, and is attended with many frauds and abuses, to the great detriment of the poor of the Kingdom: for remedy whereof be it enacted by the authority aforesaid, that from and after the said first day of August, 1752, all potatoes, in cities, towns corporate, and market towns, and elsewhere, shall be sold and delivered by weight, and not by measure, or in any other way whatsoever; and that such weight shall be by the avoirdupoise pound, fourteen pounds whereof shall make a stone, and eight stone one hundred, *which potatoes shall be weighed without fee or reward, at the beams and scales of the said respective places, to be erected and kept pursuant to this Act.*

—ooo—

(7.)

1st G. III, c. 17.

CLAUSES OF AN ACT

For reviving, continuing, and amending several temporary Statutes, and for other purposes therein mentioned.

s. 10. And whereas it is very difficult, as the law now stands, to obtain impartial trials in cities, in cases where the right to tolls, duties, or customs, claimed by the respective corporations of such cities, come in question: be it enacted by the authority aforesaid, that no issue shall hereafter be tried by a jury of any city, in any action or suit concerning any tolls, duties, or customs claimed by the corporation of such city, but every such issue shall be tried by a jury of an indifferent county, to be appointed in the court in which such action or suit shall depend.

s. 25. And

s. 25. And whereas great abuses have prevailed in cities and towns corporate in this Kingdom, by the exacting of several unreasonable and excessive tolls of corn, grain, and other goods and merchandises, not warranted by law, charter, or usage: for the remedy whereof be it enacted by the authority aforesaid, that the Mayor or other chief Magistrate of every city and town corporate, shall cause a schedule of the duties, tolls, or customs claimed by the corporation of such city or town corporate, to be hung up in some conspicuous part of the market house or market houses of such city or town corporate, on every market day, for one month next ensuing every Michaelmas day, and in case of neglect so to do, such Mayor or other chief Magistrate shall for every such neglect forfeit a penalty of ten pounds sterling, to be recovered in a summary way by civil bill at the next Assizes, by any person or persons who shall sue for the same.

s. 26. That if any officer of any corporation, farmer of tolls, or toll gatherers, shall exact from or compel any person or persons to pay any duty, toll or custom, or perquisite not mentioned or comprised in such schedule, to be hung up as aforesaid, such officer, farmer of tolls, or toll gatherer, shall for every such offence forfeit the sum of five pounds sterling, to be recovered by civil bill at the next Assizes, by any person from whom any unlawful duty, toll, or custom, or perquisite shall be so exacted.

s. 27. And whereas the progress of the linen manufacture has been in many cases retarded by a scarcity of fuel, be it enacted, &c.—that all turf, furze, and timber in faggots for fuel, shall, pass into and through every city and town, free from all toll, custom or perquisite whatsoever, claimed by any officer or member of such corporation.

—ooo—

(8.)

3d G. III. c. 34.

CLAUSES OF AN ACT

For the better regulation of the linen and hempen manufactures.

s. 10. And that if any councils shall be made use of in any fair or market, in order to distinguish or ascertain the fact or denomination, or weight of any linen or hempen yarn, exceeding in value two shillings the pound weight, such council shall

shall be forfeited, and every person making use of the same as aforesaid, shall forfeit the sum of ten shillings for every time he or she shall so make use of them.

s. 50. And be it enacted by the authority aforesaid, that all linen, yarn, and linen cloth, which shall be hereafter sold or bought in any fair or market, shall be sold and bought within the custom gates or custom gaps of such fair or market; and all linen, yarn, and linen cloth, which shall be sold or bought, coming to any fair or market, and not within the said custom gates or gaps, shall be forfeited.

s. 56. And that no toll, custom, or duty whatsoever, shall be paid or demanded, for any flax-seed or hemp-seed, flax, hemp, or cotton, or any cloth made of linen, or hempen, or cotton yarn, or cloth made of linen, or hempen yarn and cotton mixed, kelp or pot-ashes, wheels, reels, hackles or looms, for or by reason of their being brought to, or kept in any market or fair, or for the passage of them or any of them over any bridge, or through any city or place whatsoever, (turnpike gates only excepted,) and that if any person shall demand, exact, or take any toll, custom, or duty whatsoever, contrary to the true intent and meaning hereof, every person so offending shall, for every such offence, forfeit the sum of forty shillings.

—000—

(9.)

11 & 12 G. III. c. 31.

CLAUSE OF AN ACT

For enabling certain persons to carry on and complete the Grand Canal.

s. 29. That no duty, rate, toll or custom whatsoever, save the rates herein mentioned, shall be taken for, upon, or out of any goods, merchandises, commodities, or other matter whatsoever, which shall or may be carried by the said navigation, to or for any place whatsoever.

—000—

(10.)

27 G. III. c. 15.

CLAUSE OF AN ACT

To prevent tumultuous risings and assemblies, and for the more effectual punishment of persons guilty of outrage, riot, and illegal combinations, and of *administering and taking unlawful oaths.*

s. 6. And be it further enacted, that any person or persons, not duly qualified by law to administer oaths, who shall administer or cause to be administered, or tender or cause to be tendered to, or by threats, promises, persuasions, or *other undue means, cause, induce*, or procure to be taken, by any person or persons, any unlawful oath, or solemn engagement, *upon a book or otherwise*, and being by due course of law thereof convicted, shall be adjudged guilty of felony, and may be transported for life; and every person who shall take any such oath or solemn engagement, as aforesaid, not being thereto compelled by inevitable necessity, and being by due course of law thereof convicted, shall be adjudged guilty of felony, and suffer as a felon, and may be transported for seven years.

—ooo—

(11.)

30 G. III. c. 29.

CLAUSE OF AN ACT

For the better enabling the Royal Canal Company to carry on and complete the Royal Canal, from the city of Dublin to Tarmunbury on the river Shannon.

s. 15. Provided always, that any thing herein contained shall not extend, or be construed to extend, to the depriving the corporation of the city of Dublin of any toll or custom that they have hitherto been entitled to receive, on goods brought into, or carried out of the county of the said city of Dublin.

—ooo—

(12.)

32 G. III. c. 29.

AN ACT

To prevent Abuse in the Collection of Tolls.

“Whereas corporations frequently authorize persons of little or no substance to collect tolls, to which they claim to be entitled, and whereas such toll gatherers compel many persons to pay tolls to which such corporations are not entitled by law, and when suits have been instituted against such toll gatherers for such exactions, by the persons aggrieved thereby, such toll gatherers have been defended by, and at the expense of such corporation, and after judgment had been obtained against such toll gatherers, they have run away, and the plaintiffs have
been

been left without any redress for the injury they have sustained; to prevent which practices for the future, be it enacted by, &c.—that from and after the first of May, 1792, as often as any toll gatherers shall seize or detain any goods or merchandises, for or upon account of any tolls claimed by a corporation, it shall and may be lawful to and for the person or persons who shall think himself or themselves aggrieved thereby, to apply to the Mayor or chief Magistrate of such corporation, to be informed whether such toll gatherer has acted under the authority of such corporation or not, and such Mayor or chief Magistrate is hereby required to give a certificate thereof to the person or persons so applying. And in case such Mayor or chief Magistrate shall refuse to give such certificate, or shall certify that such toll gatherer has acted under the authority of such corporation, then it shall and may be lawful to and for the person or persons who shall think himself or themselves aggrieved thereby, to join the treasurer or chamberlain of such corporation, with such toll gatherers in any action or replevin which he or they may be advised to bring; and in case he or they shall obtain judgment in such action or replevin, by default or otherwise, he or they shall have the like remedy against such treasurer or chamberlain as against such toll gatherer, such treasurer or chamberlain shall not be permitted to plead *non cepit* in such action or replevin; and in case such Mayor or chief Magistrate shall certify that such toll-gatherer did not exact such toll under the authority of such corporation, that then it shall and may be lawful to prosecute such toll gatherer for a misdemeanour, as a person raising money upon the subject without lawful authority.”

—000—

(13.)

52 G. III. c. 134.

CLAUSES OF AN ACT

For the better Regulation of the Butter Trade in Ireland.

s. 17. And whereas the weighing, examining, and branding such empty cask or casks, and cask or casks of butter, are attended with great expense and trouble; be it therefore enacted, that the weigh master or weigh masters of each city, town corporate, place of export, and market town for the time being, shall have and receive from the person bringing the same to be weighed and branded, or from the owner thereof, the sum of one penny, and no more, for every such empty cask so weighed and branded; and for the weighing and branding every cask of butter, two pence; and for tasting, proving and marking the quality, one penny, to be paid to the person

so tasting, proving, and marking the said butter; and that no butter shall be packed, sold, or exposed to sale, in any cask exceeding in weight more than eighty-four pounds in the gross; and that the said weigh master or weigh masters, his or their deputy or deputies, shall not brand any empty cask which, when full of butter, may weigh more than eighty-four pounds gross, nor less than twenty-eight pounds gross; and that the tare of every such cask or casks shall be twenty pounds weight per hundred weight on the gross weight thereof, or to be deducted in that proportion though it shall weigh less; and that upon refusal to pay the respective fees aforesaid, or any of them, by the person or persons liable by this Act to pay the same, it shall and may be lawful for such weigh master or weigh masters, his or their deputy or deputies, taster or tasters, to detain such cask or casks until satisfaction be made, according to the true intent and meaning of this Act; and that every cask or casks shall have the staves thereof as nearly of an equal thickness as may be; and that the head and bottom of such cask shall be of due thickness, in proportion to the size of such cask or casks; and if any cask of butter which shall be brought to any of the weigh houses aforesaid, shall have the butter in it packed above the riddle of such cask, such cask of butter shall not be weighed until the surface of such butter shall be reduced to a level with the corner edge of such riddle; and in case the tare marked on any cask of butter which shall be brought to any of the said weigh houses to be weighed, shall not be in the proportion aforesaid to the gross weight of such cask, it shall be lawful for the said weigh master or weigh masters, his or their deputy or deputies, and he and they are hereby required to erase such tare from such cask, and to mark and brand thereon such tare as shall bear that proportion to the gross weight thereof, which by this Act is required,

s. 27. And whereas, by several Acts now or lately in force, weigh houses and weigh masters have been long established in the liberties of *Saint Sepulchre* and of *Thomas Court* and *Donore*, which said liberties are situate within the county of the city and county of *Dublin*: and whereas it may happen that weigh houses and weigh masters may have been established by virtue of certain laws and customs in force in certain other liberties in *Ireland*, and it is expedient that weigh houses should be continued within all such liberties, and be subject and liable to the same regulations to which any weigh house or weigh master, to be erected, established, appointed, or continued in any places by virtue of this Act, is or may be liable or subject; be it therefore enacted, that the Lord of any manor, or Seneschal of any liberty, under and by virtue of any law or custom in force at the time of the passing of this Act, and
which

which shall have been put in force or acted under for the space of six years before the passing of this Act, shall respectively according to such law or custom have full power and authority to appoint one weigh master for each and every such manor or liberty, for butter and tallow, to weigh, brand, and mark all such casks and commodities, and take and receive all such sum and sums of money for weighing, branding, and marking the same, as any weigh master or weigh masters nominated and appointed, or to be appointed by, or in pursuance of this Act, can or may have, exercise, take, or receive by virtue of this Act; and after such casks or commodities shall be weighed, branded, or marked by the weigh master of the said respective liberties as aforesaid, such casks or commodities shall and may be exported in such sort and manner as if weighed by the weigh master of any place under the direction of this Act, any clause, matter, or thing in this Act contained to the contrary notwithstanding; which said weigh masters and their respective deputies shall be subject and liable to all the regulations, pains, and penalties to which any other weigh masters or their deputies appointed by this Act or in pursuance thereof are subject and liable, under the direction or controul of the Lord or Seneschal of any such manor or liberty respectively.

RESOLUTIONS

II.

RESOLUTIONS OF IRISH HOUSE OF COMMONS
ON THE SUBJECT OF TOLLS.

—ooo—

EXTRACTS FROM IRISH COMMONS' JOURNALS.

—ooo—

(14.)

"6^o Die Aprilis, 1635, O. S.

"Ordered, upon question, that the excessive taking of tolls and customs, in fairs and markets, in corporations and other places throughout the whole Kingdom, be presented to the Lord Deputy, by way of petition of remonstrance, in the name of this House, humbly to desire his Lordship to take the same into consideration, and to examine and regulate the same as shall seem best for the ease of the subject."—Vol. 1, p. 190.

—ooo—

(15.)

"2 Die Septembris, 1662, O. S.

"Reported from the committee of grievances, that in obedience to an order of reference upon a petition exhibited by several persons against William Harvey, scavenger of the city of Dublin, for exacting more toll upon all sorts of grain and malt, than of right did appertain; and having heard both parties and their witnesses, what could be said or proved therein, did find, "*That anciently, and of right, there was no more toll due than as much as could be taken out of the sack with the hand to the wrist of the arm,*" and it appearing that toll is now, and of late hath been taken by two toll dishes, the one containing about five pints and a half, and the other about four pints and a half.—"*That anciently, no toll was taken but in the market, and upon market days,*" but of late toll hath been taken by force, without respect of the market or market days, and in all places within the jurisdiction of this city, as well without as within the city. "*That anciently the sword bearer took but so much out of each parcel of wheat as was necessary for a sample for the Mayor, to put an assize upon bread;*" but of late he hath exacted two handfuls without which he has refused to give a ticket to the countryman, to carry out of the market his corn; all which said particulars were judged by the said committee to be grievances."

"Ordered,

"Ordered, upon question, that this House do agree to the report of the committee of grievances, and hereby vote the several particulars, so reported, *to be public grievances.*

"Ordered, upon question, that William Harvey, scavenger, of the city of Dublin, and the sword bearer to the Mayor of the said city, be attached by the serjeant at arms, and *brought to the bar of this house, as delinquents*, for exacting and taking of excessive toll, for corn brought to this city; and that the Speaker sign a warrant to that purpose."—V. 2, p. 159.

—ooo—

(16.)

23 die Decembris, 1662, O. S.

"Ordered, upon question, that the petition of the Mayor of the city of Dublin about taking toll from the corn sellers coming to the markets of the said city, be referred to the consideration of the under-named committee. (*Fifteen persons named.*)

"Ordered, upon question, that Edward Clarke, *committed prisoner* by order of this House, to the serjeant at arms, upon a contempt *upon his exacting toll* from corn sellers coming to the markets of this city, *contrary to a former vote of this House* in that behalf, be forthwith set at liberty; the Mayor of Dublin, &c. having, by their petition, humbly submitted the whole matter to this House, and prayed his enlargement. V. 2, p. 240.

—ooo—

(17.)

Die Marti, 1663, O. S.

"Report from the committee appointed to take into consideration the petition of the Mayor of the city of Dublin, &c. concerning the regulation of the toll; that, after great debate about the same, they agreed upon the particulars following:—

"That the toll taken for the corn brought to and *sold in the market* of Dublin, out of every barrel of wheat, bere, and barley, be a sealed quart struck; and out of every barrel of all other grain, three pints struck; and for the better regulation thereof, *no toll be taken for corn bought in the country, and brought to the city for the private spending in a family.*"

"The toll of corn not to be taken in any other place but in the market, or where it is housed."

"The

"The toll of the sword bearer is disclaimed by the petitioners."

"The taking of any *more than one toll* of corn for the same corn, is disclaimed by the petitioners ; only the farthing a sack of corn for the custom of the thorough toll is to be taken."

"No toll to be taken in the market but in the presence of the owner or servant."

"That corn brought into the market, and paying toll, but not sold, may be either left in the town-hall, or carried away by the owner."

"That no money be taken for putting the unsold corn in the common room."

Sir William Davis, Recorder, assured the House, that when the toll came to be taken according to the manner proposed in the report, *the tax now laid upon the inhabitants of this city for cleansing the streets, would be taken off.*

"Ordered, upon question, that this House do agree to the above report of their committee, and that his grace would be pleased, by Act of state, to empower the persons concerned to take and receive the toll, as it is therein expressed, *and not otherwise.*" V. 2, p. 296.

—ooo—

(18.)

"26 Die Octobris, 1692. O. S.

Reported from the committee of grievances, that they had come to the several resolutions following:—

"Resolved—That the taking of a pint of corn by Alexander Gordon, sword bearer of the city of Dublin, by colour of his office, out of every barrel that comes to the said city, or the liberties thereof, is illegal, extortious, and a great grievance."

"Resolved—That the taking of more than one sealed quart, struck, out of every barrel of wheat, rye, bere, and barley, and the taking of more than three pints, struck, out of every barrel of other grain, brought to and sold in the market of Dublin, was and is, illegal, oppressive, and a great grievance."

"Resolved—That the taking of the toll by Thomas Rogers, one of the toll gatherers of the city of Dublin, by the two
brass

brass measures unsealed, produced before the committee, each of which contains above two quarts out of each barrel of wheat, and all other grain brought into the city of Dublin, is illegal, and a grievance." V. 2. p. 612, 072.

—000—

(19.)

"17 Die Septembris, 1693, O. S.

"Reported from the committee of grievances, that they had taken into their consideration the matter concerning Alexander Gordon, of Dublin, and had come to the resolution following, viz.—

"Resolved,—That it is the opinion of this committee, that the taking of a pint, or any other quantity of corn, out of each sack, by Alexander Gordon, his deputy, or any under him, by way of toll, or otherwise, is extortious and illegal, to which the House did agree.

"Ordered—That Alexander Gordon be taken into the custody of the serjeant at arms attending this House."—V. 2. p. 683.

—000—

(20.)

"26 Die Septembris, 1695, O. S.

"A petition of Richard Smith, John Stubbs, and others, on behalf of themselves and others of the city of Dublin, now on the table, complaining of an undue exaction of toll or duty, by one William Cloud, an under officer of the Lord Mayor of the city of Dublin, from the petitioners, to their great oppression, read.

Ordered, That the examination and consideration of said petition be referred to the committee of grievances, and that they report their opinion thereon to the House."—V. 2. p. 688.

—000—

(21.)

"12 Die Octobris, 1695, O. S.

"Reported from the committee of grievances, that they had come to a resolution concerning the toll taken by the city of Dublin, as followeth:

"Resolved—That it is the opinion of this committee, that the taking of more than one sealed quart, struck, of Winchester measure, out of every barrel of wheat, rye, bere, and barley,

K

and

and the taking of more than three pints, struck, out of every barrel of other grain brought into, and bought and sold in the city, or liberties of the city of Dublin, was and is illegal, oppressive, and a great grievance.

"A petition of the Lord Mayor, Sheriffs, Commons, and Citizens of said city, being likewise presented and read, praying they may be heard at the bar of the House by their counsel, as to the said toll.

"Ordered, That the consideration of the said report be adjourned till Thursday morning next, and that the city be then heard by their counsel at the bar of this House, as is desired."

—ooo—

(22.)

21 *Die Novembris*, 1695, *O. S.*

"The House proceeded to the consideration of the report from the committee of grievances, concerning the toll of this city.

"And a motion being made, that the city be left to law, to try their right to the toll of all grain demanded by them, and the quantum, it passed in the negative."

—ooo—

(23.)

6 *Die Octobris*, 1703, *O. S.*

Doctor Coghill reported from the committee of grievances, that they had come to several resolutions, which he read in his place, and after delivered in at the table, where the same were again read, and are as follow:—

"Resolved—That it is the opinion of this committee, that the receiving or exacting toll or custom for cattle in any market, town, or place where the same are not sold, is a grievance."

To which resolution the question being put, the House did agree.

"Resolved—That it is the opinion of this committee, that the receiving any toll or custom for the driving cattle, or carrying any sort of goods through any market town, or high road where the same are not to be sold, is a grievance; except where the persons receiving such toll do, and ought to repair bridges, on account of receiving the same."

To

To which resolution the question being put, the House did agree, with an amendment:

“Resolved—That it is the opinion of this committee, that the receiving or exacting of toll or custom for the bringing of any goods whatsoever, into any market town, where the same are not to be sold, is a grievance.”—V. 3. p. 36.

—000—

(24.)

28 Die Februarii, 1703, O. S.

“Resolved—That no toll ought to be paid for driving any cattle, or carrying any goods to or from any city, corporate town, or other place where the same are not to be sold, unless such city, or corporate town, or other place, at their own cost, and not at the charge of the county, repair and keep up some public bridge, over which the said cattle or goods do pass.”

“Resolved—That exacting or taking such toll or custom is against the law, and an high misdemeanour.”

“Resolved—That it is the duty of the Justices of her Majesty’s Court of Queen’s Bench, (every term,) the Justices of Assize in their several circuits, and the Justices of Peace at their quarter sessions, to give in charge an Act made in this Kingdom, in the 25th year of the reign of King Henry the sixth, entitled, “An Act that none should take custom but within cities, boroughs, or merchant towns, where there is authority to take customs.”

—000—

(25.) IRISH PARLIAMENTARY DEBATES.

12th March, 1792.

A bill from the Lords, to prevent frauds in the collection of tolls, being read a first time,

Mr. P. Smith called on the representatives and friends of the cities and corporations of the Kingdom, to pay particular attention to this bill. It was calculated, he said, to smoothe the way to prosecution against those corporations, and to give infinite trouble to their officers and Magistrates.

The Solicitor General thought the bill a good one, and so simple as to be within the obvious comprehension of the plain-
est

est judgment in the House. Its only object was, to enable the owner of any goods or merchandise that should be seized for toll, to apply to the Mayor, or other Magistrates of the corporation, requiring him to signify by a certificate, whether the officer seizing, acted with his concurrence or not? which certificate, if the Magistrate should refuse to give, it should be lawful to join him with the officer in a suit at law, and he should be responsible to the complainant. This measure, he thought highly useful, *for to his own knowledge, great extortion had been committed by the officers of several corporations; and when a verdict had been obtained against those officers, they had ran away, and there was no person to be found responsible for the mischief that had been done.*

Mr. Prendergast Smith said, there were several articles, on which it was still a disputed point, whether toll should be paid or not; in such, it was unreasonable to require the Magistrate to become responsible for the legality of demanding the toll.

Mr. Bowes Daly thought the principle of the present bill so fair, that he could not object to it.

Mr. Bagwell and Sir Richard Musgrave, spoke in favour of the bill.

Mr. Charles O'Neill thought it was unnecessary to consult the corporation on this bill, for it was natural to suppose, they would oppose it, as tending to make them responsible for acts of oppression, *the profits of which they may now share without being answerable for them.* Prosecutions for extortion were now of no efficacy against a corporation, *and in many instances they persevere in demands after a verdict has been obtained against them.* The present bill, he observed, went not to determine what tolls were or were not payable, but merely to fix a responsibility for oppressive exactions.

Two motions were made—one by Mr. Smith, that the bill be read a second time on Saturday next—the other by the Solicitor General, that it be read a second time to-morrow. On the first a division took place, when there appeared,

Ayes,	-	-	-	-	-	8
Noes,	-	-	-	-	-	43
Majority,	-	-	-	-	-	35

The second reading was then ordered for next day.

ADJUDGED

III.

ADJUDGED CASES AND LAW AUTHORITIES.

—ooo—

(26.)

Cro. ELIZ. 558.

HEDDY v. WHEELHOUSE. Trin. 33 ELIZ. Rot. 963.

Trespass for the taking of a cow—the defendant justified, because the town of Northampton is an ancient town, and that King H. VII. *Anno 11 Regni sui*, granted to the Mayor and Burgesses of Northampton, *unam feriam annuatim*, (one fair yearly,) to be holden upon the feast of Saint Hugh, *cum omnibus libertatibus, et liberis consuetudinibus, ad hujusmodi feriam spectant, vel pertinent*. (with all liberties and free customs to the like fair belonging or appertaining)—and shews that at such a fair there holden, J. S. sold that cow to the plaintiff; whereupon he demanded a penny for toll; and because the defendant refused to pay that penny for toll, he distrained that cow, as bailiff, for the non-payment. And the plaintiff thereupon demurred in law. The sole question was, whether by this grant there be any toll to be demanded? For, if it were due, it was agreed on both sides that a distress might be taken for it; and that the defendant, as bailiff, and one of the corporation, might well distrain for it. But it was argued for the plaintiff, that toll was not demandable, unless by grant from the King, or by prescription—and it cannot be here by prescription, because it is a fair newly created—nor by grant, for there be not any words of grant of toll—and it is not any liberty, or custom of common right appertaining to a fair, and therefore it passed not by the general words, *cum omnibus libertatibus, &c.* But it was argued for the defendant, that toll is a thing of common right, due for the entry of things sold in fairs or markets, and for the better knowing of the things sold, and into whose property they be passed: and therefore, by a grant of a fair, *cum libertatibus ad feriam pertinent. &c.* it well may pass. And of common right a penny shall be paid for such, unless in places where nothing, or a greater sum is by prescription to be paid. *Vide 9 H. VI. 45 & 12 ED. IV. 9.* Wherefore, &c.

POPHAM—Toll is not a thing of necessity, nor incident to a fair, *for there be many places where no toll is paid*; and if toll had used to be paid, no doubt but that by grant of a fair it had well passed, without the words, *cum pertinentis*. And questionless also, the King may grant a fair, and that toll shall be paid, although it be a charge upon the subject; because his
subjects;

subjects, (viz. the Venders,) have benefit and ease by such fairs; *but the King cannot appoint a burthensome toll*, but it ought to be a *petit* sum, as a penny or two pence, which are the smallest coins, or of lesser, but not of any greater value, to charge the subject. But without grant or prescription, toll is not of common right to be demanded. Wherefore, &c.

CLENCH, inclined to that opinion.

But, because the other Justices were absent, *Adjournatur, vide residuum postea. Mich. 39 and 40, Placito 29.*

—ooo—

(27.)

Cro. ELIZ. 591.

HEDDY v. WHEELHOUSE, (*Ante Pasch. 39, Pl. 15.*)

The case was now moved again, and after argument at the bar,

POPHAM, GAWDY, and FENNER, delivered their opinion:

That, by the said grant of a fair, *cum omnibus libertatibus, &c.* toll is not due nor demandable; for toll is not incident to a fair, *as common experience proves, for the greatest part of the fairs in England have not any toll*; but by express words in the King's grant, the grantee may have toll, so he may have *poizage*, or *pontage*; for the subjects have thereby a greater benefit for their money than they pay for it, viz. in the one case true weights; and in the other, ease of passage over water, which otherwise was not well fordable, &c.

Absente Clench, it was adjudged for the plaintiff.

—ooo—

(28.)

4 DURN. and EAST. 104.

Michs. 1791.

MOSELY, Bart. v. PIERSON.

This was an action brought by the plaintiff, claiming toll for flour and oatmeal sold by the defendant on market days, in an inclosed shed at a public house, and the oatmeal was delivered at the place. Defendant's counsel asked if the plaintiff could give any evidence of toll having been taken on flour and oatmeal sold, *which had not been brought into the market*, and as plaintiff

plaintiff could not, he was nonsuited. Upon application to set the nonsuit aside, the Judges were of opinion, *that goods sold by sample were not liable to toll.*

LORD KENYON, C.J. said, "A sale in a market imports that the goods are brought into the market, and ready to be delivered to the purchaser. Now here the claim is for toll *in specie*, which necessarily implies, that the commodity in regard of which the toll arises is brought into the market. The grounds on which my opinion proceeds are, that I cannot consider it as a sale in a market, unless it be in the mode in which sales are generally made in markets, namely, by selling the goods which are brought into the market for the purpose."

GROSE, J.—"I am of opinion, that goods sold in the market must necessarily mean goods brought into the market and there sold, otherwise he could not take toll *in specie*. The precedents cited are strong to shew that the word "Sold," as applied to a sale in market, means a sale of goods, which are in the market."

—000—

(29.)

THE MAYOR AND COMMONALTY, AND CITIZENS OF THE CITY OF LONDON, v. THE MAYOR AND BURGESSES OF THE BOROUGH OF LYNN REGIS, COMMONLY CALLED KING'S LYNN, IN THE COUNTY OF NORFOLK; IN ERROR. 1 *Bosanq. and Puller, Rep.* 487.

This was an action brought by the corporation of London against the corporation of King's Lynn, for taking toll from five persons, freemen of London, who, amongst other liberties and privileges, had the liberty and privilege, "That they and all their goods should be quit, and free of and from all passage, lastage, and other customs, throughout England and the King's ports."—In Easter term, 1789, the cause was tried at the bar of the Court of Common Pleas, (England.) 1 *H. Bl.* 266, when a verdict was found for the corporation of London. The judgment was, "That the citizens, and all their goods, should be quit of yielding such toll, &c."—On a writ of error brought to the House of Lords, the judgment of the Court of Common Pleas was, by the unanimous opinion of the Judges, affirmed.

N. B. The writs and the declaration are stated at length in *H. Blackst. Rep. C. B.* 206, together with the subsequent proceedings in the Court of Common Pleas; also see 4 *Durnf. and East*, 130, being the same case removed in error to the Court of King's Bench, from the judgment of the Court of Common Pleas.

KING,

(30.) KING v. BURDETT. Vin. Ab. Tit. "Toll," 20.

Information against *Burdett*, farmer of Newgate market, for extortion, in *taking divers sums* of the market people for rent, *for the use of the little stalls in the markets*, and *divers great sums* for fines, and was found guilty. It was held by the Court B. R. and by *Holt*, Ch. J. at Guildhall, that if the defendant erect several stalls, and does *not leave sufficient room for the market people to stand and sell their wares*, so that for want of room they are forced to hire the stalls of the defendant, the taking of money for the use of the stalls in such cases, is extortion; but if the people have room enough clear to themselves, to come and sell their wares, but for their *further convenience*, they *voluntarily* hire these stalls of the defendant, without any necessity compelling them, there it is no extortion, though the defendant takes a fine and rent for the use of them. *The law has not appointed any stalls for the market people, but only that they shall have the liberty of the market*, which the defendant does not abridge, having left them room enough, besides the place where the stalls are set, and *then*, if they will enjoy the convenience of the stalls, they must comply with the defendant's terms.—*Lord Ray. Rep.* 148, 149, *Hill*, 8 and 9, *W.* 3.

—ooo—

(31.) COMYN'S DIGEST. Tit. "Market," v. 4. 163.

The duties usually paid at a fair or market are *toll, stallage, picage, &c.*

(32.) TOLL is a reasonable sum due to the Lord of the fair or market for things sold there, *which are tollable.* 2 *Inst.* 220.

(33.) And it was usually allowed for witnessing of the sale. 2 *Inst.* 220.

(34.) And by common right shall be only upon a sale of live cattle, not of victuals, wares, &c. *R. Mod.* 474.

(35.) By special custom toll may be for goods not sold. *Semb. Lut.* 1336. But that seems to be for *stallage.* 2 *Inst.* 221. *Mod.* 835. *Rol.* 123. l. 37.

(36.) The *Mirror* says, that a halfpenny shall be taken of goods of 10s. *et sic pro rata*; so that no toll exceed a penny. 2 *Inst.* 222.

(37.) And therefore above a penny is an unreasonable toll. *Mo.* 474.

(38.) If

(38.) If the toll granted with a fair or market *be outrageous or unreasonable*, the grant of the toll is void, and the same is a free market or fair. 2 *Inst.* 220. *Cro. Eliz.* 558.

(39.) The King may grant a fair, and that toll shall be paid; but it must be of a very small sum, as 1d. or 2d. or less, *but not more*. *Per. Popham. Cro. Eliz.* 559.

(40.) *But Mo.* 474. *pl.* 680. *S. C.* the Justices held 1d. a beast, unreasonable.

(41.) Toll is not incident to a fair or market, and therefore a grantee shall not have toll without a special grant. 2 *Inst.* 220. 716. *in marg.* *Cro. Eliz.* 558, 592. *Mo.* 474. *R. Pal.* 77, 86.

(42.) And therefore, if the King grant a market, &c. *de novo, omnibus libertatibus pertinen.*; he shall not have toll. *R. Pal.* 78.

(43.) So after a fair or market granted, the King cannot grant a toll without a *quid pro quo*, some proportionable benefit to the subject. 2 *Inst.* 220.

(44.) And therefore, it is not sufficient to allege the grant of a market *with all tolls belonging*, but there must be alleged an express grant, or a prescription for toll. *Lut.* 1330.

(45.) So the King cannot grant a toll for goods not brought to the market. *Lut.* 1502.

(46.) So regularly toll shall not be paid before the sale; for it is due from the buyer, not from the seller. 2 *Inst.* 221. *Lut.* 1336.

(47.) The King shall not pay toll, 2 *Inst.* 221.

(48.) Tenants in *ancient demesne* shall not pay toll for goods for his tenements or family. 2 *Inst.* 221. 1 *Roll.* 321. *B.* 1 *Leon.* 233.

(49.) An outrageous toll is any toll when there is none due, or the party is discharged of toll. 2 *Inst.* 220. or if more be exacted than is due. 2 *Inst.* 220. And therefore an action upon the case lies against him that takes an outrageous toll, viz. of him who ought to be quit. *Yel.* 13.

(50.) *Stallage* is a duty for the liberty of having stalls in a fair or market. *Pall.* 77.—or for removing them from one part of the fair to another. *Pall.* 77.—But for the different kind
L of

of tolls, vide 2 *Roll. Ab.* 522. *Mod.* 47, 231. 2 *Mod.* 143. *Ld. Raym.* 385. 4 *Mod.* 319. 2 *Show.* 34. *pl.* 26.

(51.) *Picage* is a duty for picking holes in the Lord's ground, for the posts of the stalls. *Per Treby. Qua. W.* 29. *Pul.* 77.

(52.) If a man prescribe for toll, viz. *pro quolibet stallā*, so much, it is well, for toll is a general word. *R. Lut.* 1519.

—ooo—

(53.) 2 *BAC. AB.* 457.

Toll is a general word which comprehends all duties and payments at a fair or market, and therefore a grant to be discharged of toll, discharges a man from *picage* and *staliage*.—*Palm.* 78. 2 *Lutw.* 1519.

—ooo—

(54.) *COM. DIG.* 153, Tit. "Ecclesiastical Persons."

Ecclesiastical persons shall be discharged of tolls, customs, average, pontage, paviage, &c. for their ecclesiastical goods.—2 *Inst.* 4.

(55.) And if they be molested, they may have a writ for their discharge. *F. N. B.* 227. *F. Reg.* 260. So for goods bought for their sustenance. *F. N. B.* 227. *F.*

—ooo—

(56.) *VINER'S AB.* Tit. "Toll," V. 20, p. 288.

Of things bought by any for his own use, no toll shall be paid. *Br. Tolls, pl.* 7, cites *S. C. pr. Thorp. Green and Seton for Law.*

(57.) No toll is due for hens or geese, or for any other things of such a nature. *Per Clench. Ow.* 109. *Trin.* 36. *Eliz. B. R. Escot v. Laureny.*

(58.) Nothing for any thing tollable brought to the fair or market to be sold, shall be paid to the owner of the fair or market before the sale thereof, unless it be* by custom, time out

* NOTE. By special custom toll may be due, though the party do not sell. *Arg. Bulst.* 202, cites 9 *H.* 6 45, *ibid.* 204 per *Coke Ph. J. Pasch.* 12. *Jac. in the case of Hill v. Hanks, alias Hawks, S. P. agreed.* But that cannot be when the corporation is erected within time of memory. 2 *Lutw.* 1336, *Trin.* 2 *Jac, Leight v. Pim.*

out of mind used; which custom none can challenge that claim the fair or market by grant within the time of memory, viz. since the reign of Richard I. which is a point worthy of observation, for the suppression of *many outrageous and unjust tolls*, encroached upon the subject, to be punished within the purview of this statute; (3d. Edw: I. c. 31,) so note, it is better to have a fair by prescription than by grant. 2 Inst. 221.

(59.) But if a wall be made *which is not defensible*, nor for safeguard of the people, then ought not this toll to be paid, for the end of the grant or prescription is not performed.—2 Inst. 222.

—ooo—

2 STRANGE, 1171.

(60.) HOLLOWAY v. SMITH.

Intrespas the defendant justifies a distress for toll and sets forth a custom in *Darenty*, to hold a fair on St. Augustine's day and take toll; and that Queen Elizabeth reciting all this, had granted them two new fairs, one on the Tuesday after Easter, and the other on St. Mathew's day, *with all profits, commodities, liberties, and free customs.—ad hujusmodi ferias pertinen.* On demurrer the justification was held ill, for toll is not incident of common right, and therefore not within the words of reference; and being new fairs, upon which no toll is granted by *express words*, the custom cannot extend to them, so the plaintiff had judgment.

(61.) The party has no remedy for the toll if the goods are carried out of his jurisdiction. *Noy. 37, in Hicksmon's Case cites 20th H. VI.*

—ooo—

July 22, 1815.

(62.) RECORD COURT—CARRICKFERGUS.

MARQUIS OF DONEGAL v. ROBERT MONTGOMERY.

This came on to be tried before Baron McClelland. It was brought by plaintiff as owner of the markets in Belfast against the defendant, for setting up another market to the injury of plaintiff.

Counsellor HOLMES for defendant.

It (the patentee,) gave right to enjoy all tolls, emoluments, &c. generally, but it made no specification of particular tolls payable by order or ancient custom. Mr. Holmes produced
and

and cited a case in point from *Comyn's Digest*, V. 4, p. 123, which proved, that toll was payable only on cattle and not on provisions, in which the learned Judge appeared fully to acquiesce.

Charge by the Judge for defendant.—Verdict accordingly.

—ooo—

(63.)

January 3, 1816.

ROBERT SHEA, in Replevin, v. JOHN CLAUDIUS
BERESFORD, Esq. and PETER DOYLE.

Mr. Smyley on behalf of the plaintiff said, this was an action in replevin, for detaining a cart-harness, five bags of flour, and one hundred weight of sugar, and the defendants suffered judgment to go by default. It would appear that this was a case where substantial and exemplary damages should be given—It was absolutely necessary for the Public good that exemplary damages would be given; if the toll demanded in this case was paid, it would have been an exaction; for many years past the persons who formed the tolls of the City of Dublin, have extracted from the Public considerable sums of money, which they are neither by law nor charter entitled to, and in several instances they have succeeded—because these exactions have been committed on the property of the lower orders of the community, who in general are poor and illiterate persons, and unable to contend; but wherever those unjust exactions have been resisted, they generally endeavoured to compromise with the persons who resist their claims. The facts of the case were very few; in the year 1809, an attempt of this description was made on the property of Mr. Darley, a brewer, at Stillorgan, and also on the property of the present plaintiff; and when the then farmers of the tolls and customs found that legal proceedings were intended to be adopted to obtain redress, they entreated that no proceedings would be taken, but that the matters in dispute should be submitted to arbitration, to which Mr. Darley, Mr. Shea, the present plaintiff, and others similarly situated, consented; and so conscious were those persons of the justice of resisting the claims made, that they allowed the persons claiming tolls to name the arbitrator, who thereupon named one, who, there could be no doubt, would take care of the interest of the corporation, namely, the Recorder. In consequence of this nomination, all the parties attended before him, with their law agents and witnesses, and after stating their claims, and going into evidence on both sides, the Recorder decided against their claims, after the most mature deliberation, the parties having attended before him for three days. From the year 1809 until June last, no claim was made from any of
the

the parties who had arbitrated, but in that month the carts of the plaintiff were seized for toll, whereupon the carter applied to Mr. George Jackson, an Attorney, who was employed on the arbitration before the Recorder, and Mr. Jackson, anxious to prevent expense, and conceiving that Mr. Beresford, who now has the tolls, was ignorant of what had occurred before the Recorder, went to the person who had seized the carts, and remonstrated with him on the illegality of the seizure and the demand made, upon which he liberated the carts, on Mr. Jackson's promise of waiting on Mr. Beresford, (then Lord Mayor of the City of Dublin,) and explaining to him the decision of the Recorder; and on the following day, Mr. Jackson waited on Mr. Beresford at the Mayoralty House, and in the presence of a gentleman then in company with Mr. Beresford, explained to him the proceedings which took place before the Recorder, at which he seemed satisfied, and said Mr. Shea's carts or goods should not in future be stopped by any of his collectors, and that what had been done was in error.

However, notwithstanding such promise, the seizure for which this action is brought, was soon after made.

The Jury, in this case, gave 12*l.* damages, and the verdict has never been attempted to be set aside.

—ooo—

(64.)

COURT-HOUSE, KEVIN-STREET.

March 19, 1816.

JOSEPH HANKS, Esq. *v.* MICHAEL SMITH.

Before the Worshipful Mark Hare, Seneschal of the Liberties of St. Sepulchre.

The parties being in attendance; Mr. Hanks stated his own case. He said his complaint against the defendant was for various extortions committed by the defendant in demanding and enforcing payment of Toll on goods which were not liable to such exactions. On Saturday fortnight his cart was stopped at New-street, and detained for a considerable time in the street until the defendant was paid two-pence, which he (Mr. Hanks) conceived he was not entitled to demand.

Christopher Byrne, being sworn and examined, said, on the above day he had been stopped with his horse and cart at the toll-house, New-street, and a demand made upon him by the defendant for two-pence toll, which he (witness) refused to pay. Defendant detained him in the street better than a quarter of an hour, when he at length let him go, on his promising to pay him as he returned. On his return he made another demand of it, which he still resisted, when the defendant desired him

him to keep the two-pence as if from him (defendant), and tell his master he had paid it.

Alderman Beresford (who appeared with the defendant) stated, that as there was no payment proved to have been made, the plaintiff consequently made out no case; but to shew that he was not afraid to meet the question in any tangible form, he would join in any issue that could be devised to try the legality of it, and put all further contention at rest.

Mr. Hare said, that he sat there merely to decide pecuniary differences, amounting to not more than five pounds; the present question, therefore, did not come within his jurisdiction— if the money had been paid the case would have been different, for then he would be bound to give an order to have the amount refunded, with costs.—The corporation of the City of Dublin have as much right to demand tolls at Cork or Belfast, as they have where the toll-house is at present in New-street.

Alderman Beresford said, he was aware that his man had no right to demand toll or custom at the present toll-house, it being in the County, for which reason he has given him instructions, (as may be perceived by his letter to Mr. Hanks), to follow all cars to the boundaries of the city before he makes any demand.

Mr. Hanks produced the letter alluded to, which was as follows:—

MR. HANKS,

SIR—I have been informed by the toll-gatherer at New-street, that you had refused to pay toll or custom on goods going into town; I am aware you may refuse to pay it where the toll-house is, it being outside the bounds of the City. I have therefore desired him to follow your goods to the bounds of the City, and there distrain them if the man refuses to pay.

If you can devise any method of trying the right, less offensive or troublesome to you, I am ready to adopt it.—I am, your obedient servant,

J. C. BERESFORD.

Mr. Hanks said, it was a scandalous thing that such fellows as are at present employed at the toll-houses about the City, should be suffered to abuse and ill-treat all persons who endeavour to resist illegal demands; for his own part, had he been present when his horse was stopped, he would have felt himself justified in cutting the man's arm across.

Alderman Beresford—If you did, and the man died of a lock jaw, you would be hanged for the murder.

Mr. Hanks—I don't know who you are, Sir, but perhaps, you deserve to be hanged more than I do.

Mr. Hare—Gentlemen, I request you will consider this as not a place to adopt any personal scurrility towards each other;
if

if you cannot proceed without it, I beg that such discussions shall take place outside this Court.

With regard to this summons, Mr. Hare said, he must dismiss it, *because no money had been taken by the toll-gatherer.*

Mr. Hanks said, he was told by his man, before he went into the Court, that the money was taken, or he should not have proceeded in this way.

Mr. Hare said, there was another way open to him by which he might obtain redress, and that was by an action for a trespass. The subject of this toll-house ought to be taken up by the inhabitants of that neighbourhood, and the toll-house itself presented as a nuisance. If a car is stopped at it for toll, it will naturally excite a crowd, and a crowd in so small a street as New-street, would be sufficient grounds, in this instance, to present the cause of it to the Grand Jury, who would be bound to indict it as a nuisance.

Mr. Hanks said, he had various complaints of a similar kind, but was not then prepared with the witnesses—the present witness never having driven his cart but once.

Mr. Hanks expressed his determination not to let the business stop here, but on the next Court-day to sue for various sums which he has heretofore paid, under the suggestion of Counsellor Hare, to bring the case at once before the Grand Jury, in order to have the house indicted as a nuisance.

—000—

DIVISIONAL OFFICE, MOUNTRATH-STREET,

(65.)

December 4, 1816.

WILLIAM DEMPSY *v.* ROBERT KELLY.

Mr. *Crosbie*, Attorney for the complainant, stated, that on the 28th of last month, the defendant, who is collector of tolls, stationed by Mr. Manders toll farmer at Constitution-hill, top of New Dominick-street, county of Dublin, demanded and took from the apprentice of said Dempsy, the sum of 2d. as toll, without right or justice, and under the statute, 4th Anne, c. 8, the defendant subjected himself to the penalty of 10 shillings for the first offence, proved before a Magistrate, and a heavy penalty for the second offence.

Mr. Manders, toll farmer, admitted the taking the 2d. and that sum was not warranted, nor would he justify the defendant's conduct, but insisted that this (see the Act of 4th Anne, c. 8, in the Appendix, which is clearly applicable to all parts of the kingdom,) Act, did not apply to the City of Dublin;

Dublin; and as he did not understand Acts of Parliament, he requested time, in order to consult the City, and to employ the city Agent, and come prepared with Counsel, any day the Magistrate would adjourn to.

—Eagel examined—Is the apprentice of Mr. William Dempsy, on Thursday the 28th of November last, witness and John Darcy, were carrying between them on a bier, eight window sashes; at the head of New Dominick-street, Kelly the defendant met him, and demanded 2d. toll for the sashes; witness replied he had not 2d. about him; Kelly then demanded a pledge for the 2d. and required witness to give his handkerchief off his neck; witness replied, he would see him in the Canal first; however Kelly would not suffer witness to pass until he left with him one of the sashes;—he came home, told his employer, who gave witness the two pence on Saturday last; witness paid Kelly the money, and got the sash.

SIR W. STAMER examined the witness to know whether Kelly took the sash himself, or did witness hand it to him.

Mr. Crosbie—That is not material; the complaint here is, not for taking the sash, it is for taking the money.

Darcy, next witness, corroborated the former in every particular.

The case on the part of the complainant being gone through, Mr. Manders requested that an adjournment might take place, and the case was accordingly adjourned till Thursday next, when Counsel should be heard on both sides, if the corporation thought proper so to do.

But the case never came on again, as the defendant submitted, and paid the penalty.

—ooo—

COURT OF COMMON PLEAS,

(66.)

Saturday, May 31, 1817.

FRANCIS PILSWORTH AND JOHN PILSWORTH,
v. MICHAEL LACY AND WILLIAM HENRY ARCHER,
Esq. as the Treasurer and Chamberlain of the Corporation of
the City of Dublin.

The following most respectable Jury (of whom five were
Freemen of the City of Dublin,) being sworn:—

James

James Nugent, Esq.
 Edward Butler, Esq.
 James Chambers, Esq.
 Thomas Browne, Esq.
 Joseph Atcheson, Esq.
 Richard Cooke, Esq.

Charles Smith, Esq.
 Thomas Clarendon, Esq.
 Andrew Richey, Esq.
 Thomas Locke, Esq.
 Horatio Jesson, Esq.
 Samuel Odham, Esq.

Mr. Perrin—Gentlemen of the Jury, if this were an ordinary case—if it were a mere occasional trespass, and not part of a system long pursued, I should content myself with calling the witnesses, and letting them detail the circumstances of the trespass; but, gentlemen, the peculiar nature of this case, the illegal claims from which it has arisen—the outrages by which these claims have been asserted, oblige me to go more fully into the question.

The plaintiffs are Mr. Francis Pilsworth and Mr. John Pilsworth; one of whom resides at the Royal Canal harbour, the other at Mullingar. They are extensive dealers, and have been engaged in that business a considerable time. In the course of business they purchase corn in the market towns, upon, and in the neighbourhood of the Canal, and send it to their stores in Dublin, for the purpose of vending it out, or exporting it; they either sell it in the Dublin market, or vend it by retail at their stores, or export it. For the corn sold in the Dublin market, they uniformly, and without objection, paid toll; and, with respect to the corn sold at their stores or exported, they have been obliged frequently to pay toll to a large amount. For, gentlemen, the corporation of Dublin claim to be entitled to toll of two kinds—toll on the sales in market, and toll or what they call custom, on what is carried to the market, or elsewhere, into, or through the city. *It is a curious circumstance, and a circumstance which has occasioned considerable loss to the plaintiffs, that, on transporting corn purchased at Mullingar, which never passed on wheel or other carriage through Dublin, but by the Canal that verges on a corner of it, to ships in the river for exportation, they have been obliged to pay toll!* They felt this to be a grievous extortion—they made repeated proposals to have the claim amicably investigated and ascertained, determined instantly to submit to it if decided against them; but these proposals were rejected; and it now becomes my duty to expose to you the nature of the claim. Tolls are of two kinds—tolls payable on the sales at the market, to which the owner of the market is entitled, *for the accommodation he affords to the buyer and the seller for providing a place to expose articles for sale, and, if necessary, to store them.* This tax is payable on the goods actually sold at the market; for, unless the article be actually sold, though it goes and remains in the market, *no toll is payable.* This toll still subsists, because, by the consideration on which it was founded, the convenience afforded has not been discontinued. Besides this toll, there was another ancient toll, called

called *Toll Thorough*, payable on the passage of goods through, or over the precincts, or any part of the precincts of corporate towns. Anciently, most corporations were entitled to make this charge for all goods on entering the city, whether passing through, or remaining there, under the head of murage, pontage or paveage; and it was levied for enclosing towns with walls, for paving the streets, and building and repairing the bridges. The tax grew out of the convenience and accommodation thus afforded, *and, with that accommodation, it expired*. Accordingly, in the reign of Queen Anne, when murage being totally discontinued, it became the custom to pave the streets, and build and repair bridges from funds raised by general taxes, and these works were no longer at the expense of the corporations; an Act of Parliament was passed, which put an end to toll thorough. To shew that the claim for toll thorough is commensurate with the consideration afforded, I shall cite an authority. (Here the learned Counsel cited a case, *Com. Digest. 361.*) The Statute of 4th Anne, c. 8, recites, That the claim of toll thorough is a *prejudicial exaction*, and a discouragement to trade in general; and it enacted, *That no toll should be taken except for articles sold in the market*, and no toll thorough to be claimed but where the corporation is bound to keep up a bridge in fit repair, at their own costs or charges, and not at the costs and charges of any county, county of a city, or county of a town.

The great objects of this Act are salutary and obvious. Tolls continued to be collected, and paid out of the pocket of the subject, and applied by corporations to *their private purposes*, though the purposes for which the tax was established ceased to exist, but yet the corporations were unwilling to give up their claims or relinquish their exactions, which they had applied to very different purposes; and notwithstanding this Act of Parliament abolishing it, many corporations, and particularly the corporation of Dublin, did exact the tax. This conduct became a very general subject of complaint, and whilst a Parliament was held in this country, frequent petitions were presented to it on this subject, and particularly one in the year 1662, against William Harvey, who is thereby complained against, and stiled Scavenger of the city of Dublin. That petition was presented against the Scavenger for exacting more toll than he was entitled to, and therefore a report by a committee was adopted by the whole House, which states, "*That anciently no toll was taken but in market, and on market days; but of late, toll hath been taken on every day, and at all places within the city, and this extortion it expressly finds to be illegal, and unjust;*" and thereupon the Scavenger was attached by the House of Commons, and the City appeared at the Bar by Counsel, and after a full hearing, it was decided by the House of Commons,

THAT THE CLAIM WAS UNFOUNDED. Six or seven other petitions were presented at different times, respecting this outrageous claim, against the Scavenger, Sword-bearer, and others of the city Officers. The House of Commons, feeling the crying injustice of the claim, *made examples by punishing those officers*, and the claims were for a time abandoned, but have been since renewed. The corporation have, for the last 17 years, *gradually increased* their illegal claims, and of late, within the last two years, they have devised a plan of evading the Statute of Anne altogether, which was, by subjecting all corn that comes within their precincts to their exactions. Formerly one might say, *this is not market-day—this is not the market-place—this corn was neither bought nor sold in your market*, and they had no reply.—But now from every one who brings corn into, or through the city, whether for sale, exportation, or private use, the corporation demands this illegal charge, throwing it on the party to look for redress to an action. They know that in ten thousand cases it will be submitted to, because no man likes to go to the expense and hazard of litigation to resist it, and most persons had rather submit to the loss than engage with so powerful an adversary. They act on this principle, hoping, that after a few years, if the tax should be submitted to, they may set it up as an usage. But it is not merely on corn that they charge toll—they charge it on almost every other article; and in one particular instance, of Mr. Pilsworth's furniture passing from his house in New Dominick-street, to his house in the country, they obliged him to pay toll for it.

Gentlemen, Mr. Pilsworth felt this to be a grievous extortion. He is not litigious. He had no wish to contend with the corporation in an action at law. The toll gatherer was summoned before the Magistrates, themselves members of the corporation, under the Statute of Anne, and in one particular instance, when the penalty brought for the extortion was ten shillings, *the prosecutor was bought off*. The toll gatherer compounded the matter in private, *paying a large sum to prevent an adjudication against the claim*. Mr. Pilsworth did aid in his power to try the question without going into the superior courts; he told them, *that if they shewed the Recorder's opinion in favour of their claim, he would submit*,—*he told them if they produced the Charter, warranting their claim, he would submit*—*he offered to select one lawyer, and let them select another, and to leave the matter to their decision*. The committee of tolls would come into no terms.

On the 30th of August last, Mr. Pilsworth sent his dray into town with butter, corn and potatoes; five barrels of the corn happened to have been for a freeman, who purchased it at Mr. Pilsworth's stores; some of it was for a gentleman in Donnybrook, and the other articles had been sent along the Canal by
a noble-

a nobleman, from his seat in the country to his house in town; on passing New Dominick-street, where, in fact, there is no toll-house or toll-board, seven or eight men rushed out of a public-house, some of them armed with pistols, and others with bludgeons; they laid hold of the horse, collared the driver, and demanded toll.—He asked what it was, and, said he was willing to pay any charge that was reasonable or fair; he said he understood a farthing a sack was the fair charge, and that he was willing to pay it; and he produced three pence the amount of the toll, which would have been payable if the articles had been sold in market. This they instantly refused, and they assailed and knocked down the man. Mr. Pilsworth happened to be coming up at the time by mere accident; he stopped to inquire the cause of the riot, when he was also assailed, and one of these ruffians put a cocked pistol to his breast, and threatened to shoot him. Happily Mr. Pilsworth was more cool than the leaders of this lawless gang. Some of his men hearing of the riot, ran down from his stores; and how did he act? did he resist?—did he repel violence by force?—No, he told his men that it was an illegal outrage, and that he would appeal for redress and protection to the laws of the land; and he charged them, as they valued their places in his employment, to return immediately to the stores and not to interfere. We will clearly prove that *this corn was never brought to the Dublin market;—never was bought or sold there;—and by the established laws of the land, it was not liable to any toll.* It was a pithy expression of Lord Chief Baron Comyn, *that the King can't grant a toll for goods not brought to market*; but though the King can't grant it, the corporation demand it. We will prove that they have done so with violence and outrage, and it will be for you to say, whether they shall continue to do so with impunity.—Your verdict, gentlemen, will shield your fellow-citizens from imposition and injustice, or it will arm the corporation with powers which the law never gave.

Gentlemen, we lodged examinations for the assault, and then the man behind the curtain, appeared and proposed to adjust the matter and ascertain the claim without delay, provided Mr. Pilsworth gave up the prosecution. He did so; but no step was taken to shew or ascertain the right; and at length seeing no hope of redress by other means, he then instituted an action in the Court of Exchequer, against Alderman Beresford, who was the toll-farmer—against Alderman Archer, who was treasurer of the corporation—and against Michael Lacy the collector. We filed our declaration in the Court of Exchequer, early in Michaelmas Term last; they went into that Court behind our back, and without serving any notice, on the last day of that term,—they asked time to plead, and the Court granted them time till Hilary Term. On the first day of that term,

term, they made a similar application for further time, without giving us notice of their intention. They had Counsel who strongly pressed the Court to grant their application, and the Court was inclined to do so. Counsel for Mr. Pilsworth, resisted the application, stated the entire circumstances at full, and pressed on the Court the extreme hardship of the case. The corporation still pressed their application; various pretences were urged—that the Recorder required time—that the Charter was long, and that they were a corporation whose rights were invaded. These pretences prevailed, and the Corporation got *further time* till the end of that term; that time had nearly expired, and they came into Court again to make another application, **AND THE NOTABLE GROUND ON WHICH THIS APPLICATION WAS MADE WAS, THAT THEY COULD NOT FIND THE CHARTER UNDER WHICH THEY CLAIMED AND HAD EXACTED THE TOLL.**

Gentlemen, I have to inform you, that the Court granted this application also. It was resisted by Counsel, on behalf of Mr. Pilsworth, who thereupon seeing no prospect of a termination of litigation there, asked from the Court, leave to go out of it. After some hesitation and opposition, the Court allowed us to discontinue our proceedings there without payment of costs to the opposite party, and thus, Gentlemen of the Jury, my Client, seeking for redress with law, justice, and truth on his side, had the satisfaction of being engaged in litigation, from the month of August to the month of April, without making any progress in his cause. He was advised to institute a fresh action in another Court—he did so—in the Court of Common Pleas, and the corporation attempted to practice the same imposition on that Court which they had played off so often and so successfully, in the Court of Exchequer, and without serving any notice on Mr. Pilsworth's Agent, they, at the latter end of the last term, asked time to plead.

The Court of Common Pleas asked, whether they had served notice, and on finding no notice was served, they refused to entertain the application; they refused to make an *ex parte* order behind the back of the opposite party. Disappointed in this attempt, they then served a notice of a motion for time till the first day of the ensuing term. We were prepared to resist that application, but no such motion was ever made, and we accordingly and regularly marked our judgment. Gentlemen of the Jury, after their various applications, after a delay of nearly a year, after annoying us by every species of unfair opposition, after every attempt to defeat the ends of public justice, after driving us from the Police Office into the Court of Exchequer, and out of the Court of Exchequer into the Court of Common Pleas, here at length *they stand before you, confessing the aggression and the wrongs of which we complained!*

I would

I would not have adverted to these circumstances, but that I know the question of right will be brought in, however irregularly, directly or indirectly, on the other side, because I have lately read a proclamation by the* Lord Mayor, Sheriffs, and Toll Committee of the corporation, stating, that judgment was obtained against them by default, but that they would not submit, and that the question of right was not decided; but have we not been anxious from the commencement to have the question of right decided; or did we not press and court investigation?

* A copy of that Corporation Manifesto is annexed—that it is false, is proved by this fact—that Messrs. Pilsworth alleged the taking to have been in the City, so that if there was any doubt the danger was the plaintiffs, for they alleged the taking to be in the City. If it turned out upon investigation to be in the County, they would have been nonsuited. Besides, which, it is to be understood, it was so clearly inside the City, there could not be any doubt of the boundary.

—ooo—

CITY ASSEMBLY-HOUSE, WILLIAM-STREET.

TUESDAY, MAY 27, 1817.

The Lord Mayor, Sheriffs, and the rest of the Committee of Tolls and Customs, having read in several papers gross libels against the Corporation of Dublin, for levying Tolls and Customs, alleging it was ROBBERY, and stating, that they had abandoned their right to such tolls and customs, by having suffered judgment to go by default in the Court of Common Pleas, feel it their imperative duty to CAUTION the Public not to be misled by such unfounded and malicious publications.

The action so alluded to having been brought in consequence of their tenant levying toll in UPPER DOMINICK-STREET, on investigation it was found, that he had taken such toll at a place so near the bounds of the City and the County, that a doubt might arise in which county it had been taken, and therefore the Corporation did not persevere in defending that action, as the question of boundary was doubtful.

But the Public are hereby informed, that the Corporation of Dublin are determined to enforce their right to the tolls and customs, which have been paid from TIME IMMEMORIAL, have been established by the finding of a SPECIAL JURY, recognised by Parliament, and out of which they pay Two Thousand Pounds a year, towards the paving of Dublin, thereby relieving their FELLOW-CITIZENS from an additional paving assessment.

By order of the Committee.

ALLEN & GREEN, Secretaries.

tion? BUT THEY HAVE NO RIGHT, AND THEY KNOW IT—THEY HAVE NO CHARTER, AND THEY KNOW IT. Every effort to have the matter decided without trouble, and without litigation, was made upon our part, and *resisted on theirs*. WE OFFERED TO ABIDE THE OPINION OF THE RECORDER.—WE OFFERED TO SUBMIT TO THE DECISION OF TWO LAWYERS.—WE OFFERED TO ABIDE BY THE FAIR MEANING OF THE CHARTER;—BUT ALL THESE OFFERS WERE REFUSED, and here they stand before you, acknowledging the aggression—and without an excuse for their gross and illegal extortion. Is it then too much for me to hope, that you, as conscientious and honest men, will give such a verdict as will, in some degree, compensate my Clients for the injuries they have received, and the expense they have been put to, and will at the same time warn these gentlemen how they proceed in acts of outrage and extortion.

Gentlemen, Mr. Pilsworth demands not from your hands any vindictive damages; but at the same time, you will take into consideration, that though in the present instance they only took a small quantity of his property; that similar extortions have been a thousand times repeated on him. You will recollect, that Mr. Pilsworth, whom they have so ill treated, pays tolls to the amount of 300*l.* a year to the corporation.* You will weigh all the circumstances—you will consider his conduct and his sufferings, and, no doubt, your calm and honest verdict will protect the subject, and vindicate the law.—Gentlemen, one word more on this proclamation of the City Assembly House, as it is announced. It is stated in that proclamation, that the corporation pays two thousand pounds a year towards paying the City
of

* It is to be remarked, that Mr. Perrin speaks of the toll merely upon the corn brought to Dublin; but the amount of the toll paid upon the goods to and from Dublin, through Messrs. Pilsworth's establishment, far exceeded 800*l.* a year!!! To put an end to this imposition, and to relieve the persons who entrust their goods to their care, from the payment of such an immense and illegal charge, was their sole object. It cannot be too often repeated, that Messrs. Pilsworth offered on their part, and on the part of their country friends, to submit the ascertaining the rights of the corporation to the opinion and decision of even *the Recorder*—an able lawyer—their *own officer*. This offer is an high but merited encomium on the Recorder. Messrs. Pilsworth knew that the corporation could not impose on him—and that he would not allow them to impose on the Public. Their refusal of that offer speaks for itself. Counsellor Perrin says further, "THEY HAVE NO RIGHT, AND THEY KNOW IT.—THEY HAVE NO CHARTER, AND THEY KNOW IT."

of Dublin. I DENY IT—they are bound, and ought to pave their markets—they are also bound to pave before the Mayoralty House, and their other possessions, exactly as other owners are—they are bound also to cleanse the streets leading to their markets, of which they get the profits; and you will find that by the Statute, they are bound to pay 2000*l.* not for paving, but for *cleansing* the streets, and that they do not contribute towards the paving but as other owners of property—nay, not so much, only 350*l.* Mighty contribution! Mighty relief to the inhabitants of Dublin! This is the thousands which they pay to the Commissioners of Paving. Gentlemen, I trust you will pay no regard to that proclamation—its assertions are UNFOUNDED and ABSURD—it asserts, that they yielded in this case, because the question of boundary was doubtful. See what truth, what foundation there is for this flimsy pretext. The Learned Assessor will sanction me when I tell you, *that if the taking was not within the City, where we have laid the venue, we should on a trial have been NONSUITED*, and that if we had set up any objection to their proceeding on the ground of boundary, that we should have furnished them with complete defence to the action. Gentlemen, they did not defend the action, because they had no defence, no right, and they have issued this publication to affect this inquiry, to blind you and lead you to believe that they have been irregular, but not altogether illegal; that though they have overstepped a little, they are not to be treated as extortioners, but the Plaintiffs merely compensated as for a trifling irregularity or excess in asserting a well founded claim. Gentlemen, they have NO RIGHT, NO COLOUR OF RIGHT, AND THEY ADMITTED IT BY THEIR DEFAULT. They are charged with a gross outrage, an unfounded and violent extortion and seizure of the plaintiff's property—and THEIR GUILT IS CONFESSED ON THE FACE OF THE RECORD; and it is for you to say, what compensation my Client is entitled to. That compensation is not to be limited to the quantity of grain illegally taken out of the plaintiff's sacks. You must look to the outrage committed—to the system of OPPRESSION and IMPOSITION—to the loss my Clients suffered in this long course of litigation—to their threats of future persecution. You will award the sum they are entitled to. It is for you to save the citizen from extortion, and the law from violation and contempt. It is for you to say, that the law sleeps not when the poor man demands relief; but that its even and impartial hand protects with equal regard, the rich man and the poor.

Michael Dalton, examined by Mr. Finlay.—Witness remembers the month of August last year; witness is in the employment of Mr. Pilsworth; remembers having passed driving a cart at that time, through New Dominick-street; there were oats, potatoes, and butter in the cart. Witness was stopped in
the

the street by Michael Lacy, a man of the name of Thomas Butler, and other persons came up to him; there were six or seven persons; Butler had a stick and a pistol; saw no other person armed; Butler came up to witness, and said, if he did not let go the horse he would shoot him, he then dragged him off the horse; they then tolled the sack and took corn out of it; they made a demand on witness for toll; witness offered them a farthing a barrel; they demanded more; he does not recollect whether it was two pence or three pence per barrel they demanded; they took money from witness's companion; they said it was toll for the corn, potatoes, and butter; they took twelve or fourteen pounds of corn in all; Butler pushed and dragged him, and punched him with a pistol, the other man was knocked down; they took the horse and corn from him.

Cross-examined by Mr. Scriven.—There was but one cart, and it was attended by two men more and witness; one man is sufficient to drive one cart; witness brought the two other men as he was determined to force his way; he was ordered to pay a farthing a barrel, and not more. The man knocked down was flogging the horse before he was handied; witness had hold of the head of the horse, and others lashed him on; witness don't know what else they did. There was no one with Lacy when the horse stopped; witness intended to do the best he could to drive the horse through; in passing, the cart might have gone over witness as well as Lacy; witness can't say how long he was detained; he went with the rest of his load where he was ordered; the remainder of the articles were not hurt.

Re-examined—Witness had no directions to resist the tax by force; he would, no doubt, drive through if he could, but he got no directions to use violence—don't know whether it is usual to pay toll there.

David Nugent, Esq. examined by Mr. Perrin.—Witness recollects walking with Mr. Pilsworth's brother, on the Royal Canal, in the month of August—saw a crowd in Dominick-street; was curious to know what it was about—he and Mr. Pilsworth went down where the crowd was assembled—Thomas Butler came up to Mr. Pilsworth, and asked him, did he know him? Pilsworth answered that he did not—"No matter," replied Butler, "I know you, and by this and that I have a mind to shoot you!"—Witness saw Butler strike Mr. Pilsworth's man in the mouth, and cut him—Butler said he was the King's officer, and could do what he pleased!

Andrew Farrell, Esq. examined by Mr. Finlay—recollects the evening that Mr. Pilsworth's dray was stopt in Dominick-street—was present, and heard the very words expressed by Butler, as sworn by the last witness; witness also saw Butler

pursuing a young gentleman, with a pistol in his hand—he also threatened witness, and gave him insolence.

The plaintiffs' Counsel gave in evidence the certificate of the late Lord Mayor, Alderman Shaw, which states, that Lacy acted for the corporation of Dublin, and that they were accountable for all acts of his in his capacity as toll collector.

Here the plaintiffs closed their case. Mr. Scriven, for the defendants, observed, that he meant to trouble the Jury but very shortly. He said, they were bound to dismiss altogether from their consideration, all corporate acts of Lacy. So far as Butler was concerned, they were sworn to find a verdict upon credible evidence, and not on the statement of Counsel; and what he asked was the evidence which had been brought forward. The witness, Dalton, has sworn that he was directed to force his way without violence. I am willing to give the plaintiffs the full benefit of his testimony. I am willing to admit that he was not desired, nor instructed by the Messrs. Pilsworth to use force or violence; but it is before you that he offered a farthing for each sack of corn, and that on this being refused, he attempted to force his way.

We are willing, (continued Mr. Scriven) to admit, that the trespass here complained of was committed. The toll was taken, and if you please to have it so, it was taken BY FORCE, AND WITHOUT RIGHT; and the question which you have to try is simply this—the amount of the damages sustained by Messrs. Pilsworth. You have been told, that not only in this case, but in a thousand similar cases, toll has been illegally and unjustly exacted from the plaintiffs. Are you prepared to say, they were illegal exactions? In the present case we cannot contend the question of right. WE DO ADMIT THAT WE HAVE ACTED ILLEGALLY—IT IS SO CONFESSED; but is it because we have been illegal here—does it follow that in all other cases we have acted illegally? Is it law, or justice, or common sense, that you should mulct the defendants not only in damages sustained by the plaintiffs, under the circumstances before you, but in every case where toll heretofore was demanded by the corporation, and submitted to by the plaintiffs.

Gentlemen, it has been said that this was an unfounded claim of the corporation, but I say it was not *an idle claim*, it was a claim founded on authority; it was a claim which was often submitted to by the present plaintiffs; but in this particular instance I must admit, that my Clients had no right to DEMAND TOLL.—But to this point your verdict ought in justice be confined; you are to give damages for the corn seized by the defendants; but further than this you should not go. The learned gentleman concluded an animated speech, by cautioning the Jury
from

from being led away by the eloquent and forcible statement of Mr. Perrin.

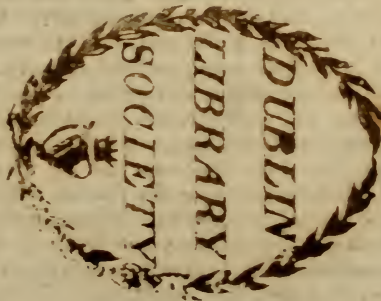
The defendants not having called any witnesses,

Mr. HUBAND, who acted as Assessor to the Sheriffs, charged the Jury. He said, that this was a question of GREAT IMPORTANCE, and of VAST PUBLIC INTEREST—that the defendants having let judgment go against them by default, the Jury were bound to give some damages to the plaintiffs; and the only question they had to decide was, what the amount of those damages ought to be. Here it appears, that the actual property taken was 14lbs. of corn; but, gentlemen, you are by no means confined to the actual damages sustained, *and, in my opinion, you should not confine yourselves to it.*—And were the plaintiffs persons who were unacquainted with the City, and ignorant of the claims set up by the corporation to tolls, I would be inclined to give them NOT ONLY HEAVY, BUT EXEMPLARY DAMAGES; because the conduct of the persons employed to exact this toll, *was most improper*, and the outrage they committed *was shockingly disgraceful*. Under all the circumstances of the case, it is for you to see how much damages the plaintiffs ought to be awarded, for some damages they must receive from your hands. Mr. Perrin stated his Clients' case ably, and most ably—and were you to be governed by the statement of Counsel, I confess, after the impression he must have made, I know not how far your verdict might not extend; but this is a question which you are to determine by other rules, and under the advice of the Sheriff, I leave the question of damages to be awarded entirely to your own discretion.

The Jury retired for about twenty minutes, and brought in a verdict—Fifty Pounds Damages and Costs.

Counsel for the plaintiffs—Louis Perrin and John Finlay, Esqrs.—Agent, Mr. James Crosbie, 39, Jervis-street.

Counsel for the defendants—Messrs. Scriven and Hamilton;—Agent, Mr. Greene.



A DOCKET



I V.

A

DOCKET OF THE CUSTOMS

OF THE

GATES BELONGING TO THE CITY OF DUBLIN.

—ooo—

At a Post-Assembly held at the Tholsel of the City of Dublin, on Monday the 13th of June, 1763, the following Order was conceived, relative to the undermentioned Docket, to wit:—

“That from and after the 24th Day of June, 1763, all Goods and Merchandises, that are really the property of any Freeman of this City, do pass Custom Free, into and out of the City, provided such Freeman do certify to the Collectors of the Customs, the quantity and quality of such Goods, and that they are his property; that if any Freeman of this City shall presume, after the said 24th of June, to certify that any Goods are his property which are actually the property of any other person not Free of this City, in order to defraud this City, or their Farmers, of the Customs of such Goods, such Freeman to be proceeded against by the City Agent, as Mr. Recorder shall advise, in order to his being disfranchised for such fraud and breach of oath.”

“And it is further ordered—That from and after the said 24th day of June, all Raw Hides going out of this City, to any of the adjacent Liberties to be Tanned, shall be free from Custom going out; that Bark going out of any of the adjacent Liberties, to be made use of for Tanning, shall likewise be free; that all Iron going out to the several Mills near the City to be manufactured, and returning to this City manufactured, shall be likewise free from Custom; that all Salt, manufactured in Ireland, shall be free from any Custom; that all Goods going to be manufactured, and the materials made use of therein, shall be free from Custom, if they are returned to this City manufactured; and that the Committee be empowered to regulate the Docket accordingly.”

Of

A

- Of every Sack of Ashes, one halfpenny.
 every Car load of Apples, or other Fruit, two pence;
 every Horse load ditto, one penny.
 every Flasket ditto, on one Car, one halfpenny, not exceeding the price of a Car load.
 every Barrel of Ale coming in, brewed without the City or Liberties adjoining, two pence.

B

- Of every Tub of Butter, one penny.
 every Crock or Basket of ditto, containing ten pounds or upwards, one halfpenny.
 every load of Deal Boards, exceeding six, one penny.
 every load ditto, under six, one halfpenny.
 every Car load of Brushes, two pence
 every Horse load ditto, one penny.
 every Back load ditto, one halfpenny.
 every Horse load or Car load of Bed-Mats, two pence.
 every Back load ditto, one penny.
 every Barrel of Bark, one halfpenny.
 every Sack of Green Beans or Peas, one halfpenny.
 every Bull, Bullock or Cow, one penny.
 every Sack of Button Moulds, two pence.
 every Flich of Bacon, one penny.
 every Car load of Brooms, two pence.
 every Horse load of Brooms, one halfpenny.
 every Car load of Brandy or other Spirits, three pence.
 every Runlet ditto, on one car, one penny, not exceeding the price of a Car load.
 every dozen ditto, one penny, not exceeding the price of a Car load.
 every Pedlar's Box carried on his back, one halfpenny.
 every Car load of Brass, three pence.
 every Horse load ditto, two pence.
 every single Brewing Pan, two pence.
 every Car load of Baskets, two pence.
 every Car load of Boymore, two pence.
 every Car load of Bent, one halfpenny.
 every Sack of Brogues, one penny.
 every Car load of Bays, Serges, Frizes, Stockings, &c. three pence.
 every pack of Flannel, two pence.
 every Bundle ditto, one penny.
 every Horse load of Frizes, Serges, &c. two pence.
 every Car load of Heel Blocks or Patten Boards, two pence.
 every Car load of Bulrushes, two pence.
 every Back load of ditto, one penny.

- Of every Car load of Brussels, three pence.
- every Piece of Buckram, one penny.
- every Horse load of Earthen Ware, one penny.
- every Car load ditto, three pence.
- every Bedstead, one halfpenny.
- every Dozen of Barrows, one penny.

C

- Of every Car load of Cheese, three pence.
- every Hundred weight ditto, one penny, not exceeding the price of a Car load.
- every Horse load ditto, two pence.
- every Calf, one halfpenny.
- every Car, to be sold, one halfpenny.
- every Kish of Charcoal, three half-pence.
- every Horse load of Charcoal, one halfpenny.
- every Car load of Candles or Soap, three pence.
- every Horse load ditto, two pence.
- every large Hair Cloth, one penny.
- every Car load of Cradles, two pence.
- every Car load of Chairs, two pence.
- every Dozen of Chairs, one penny.
- every Bag of Corker, one penny.
- every Sack of Cutlins, one halfpenny.
- every Car load of Cyder, three pence.
- every single Dozen ditto, on one Car, not exceeding the price of a Car load, one penny.
- every Kish of Kilkenny Coal, one penny.
- every Dozen of Woollen Cards, one penny.
- every Hundred of Conyfell, one penny.
- every Barrel of Corn, as Wheat, Oats, &c. one farthing.

E

- Of every Horse load of Eggs, one penny.
- every Clieve load ditto, on Backs, one halfpenny.

F

- Of every Horse load of dead Fowl, two pence.
- every Clieve of Chickens, carried on Backs or Arms, one halfpenny.
- every Dozen of dead Fowl, on one Car, one penny, not exceeding the price of a Car load.
- every Car load ditto, three pence.
- every Horse load of Fish, one penny.
- every Car load ditto, two pence.
- every Salmon, one farthing.
- every small Basket of Fish on one Car, one halfpenny, not exceeding the price of a Car load.

- Of every Trail of Figs or Raisins, one halfpenny.
- every Horse load of Feathers, two pence.
- every Car load ditto, three pence.

G

- Of every Crib of Glass, two pence.
- every Back load ditto, one halfpenny.
- every load of Grass, one farthing.
- every Goat or Kid, one farthing.
- every Gage of all sorts, two pence.
- All manner of Grain, per Barrel, one farthing.

H

- Of every Bag of Hops, three pence.
- every Pocket of Hops, two pence.
- every small parcel ditto, on one Car, one penny, not exceeding the price of a Car load.
- every Horse load of Hats, three pence.
- every Back load ditto, two pence.
- every dozen of Hats, on one Car, one penny, not exceeding the price of a Car load.
- every Cow or Bullock Hide, tanned or untanned, one halfpenny, not exceeding sixpence in the whole, on one Car.
- every Car load of Herrings, four pence.
- every Barrel ditto, two pence.
- every Mease ditto, on one Car, one penny, not exceeding the price of a Car load.
- every Hog or Pig, one halfpenny.
- every sucking Pig, one farthing.
- every load of Broad Hoops, two pence.
- every load of small Hoops, one penny.
- every load of Hay, one farthing.
- every Firkin or Runlet of Honey, one penny.
- every Crock of ditto, one halfpenny.
- every Car load of Horns, three pence.
- every Bag of Hairsell, one penny.
- every Cart of Hay, one penny.

I

- Of every Car load of Iron, three pence.
- every Horse Back load ditto, two pence.
- every Bar ditto, on one Car, one halfpenny, not exceeding the price of a Car load.
- every Bundle of Nail Rod Iron, one halfpenny.
- Rod Iron per Hundred Weight, on one Car, one penny, not exceeding the price of a Car load.
- every New Iron Pot, one halfpenny.
- every Bar of old Iron, one halfpenny.
- every Car load of Iron Mine, one penny.

Of every Hundred of Horse-shoes, and Cart Clouts, three farthings.

every Hundred of Iron Shovels or Spades, three halfpence.

every Car load of Iron Pots, three pence.

every Horse load ditto, two pence.

every Hundred Trips and Brand Irons, one halfpenny.

every Dozen of Griddles, one penny.

every Car load of Nails, three pence.

every Horse load of Nails, two pence.

every Hundred Weight ditto, on one Car, one penny, not exceeding the price of a Car load.

every Hundred Weight of wrought Iron, on one Car, one penny, not exceeding the price of a Car load.

K

Of every Kieve, one penny.

L

Of every Car load of Lead, three pence.

every Lamb, one farthing.

every Car load of dressed Leather, six pence.

every Horse load ditto, three pence.

every Leaden vessel, one penny.

M

Of every Car load of Merchant's Goods not herein particularly specified, being the property of one person, three pence.

every Horse load ditto, two pence.

every Bundle ditto, or what a man carries under him, one penny.

every Barrel of Malt, one farthing.

every Mill Wheel, two pence.

every Mill Stone, three pence.

every Barrel of Meal, one halfpenny.

N

Of every Car load of Nuts, three pence.

every Horse load ditto, two pence.

every Bag ditto, one halfpenny.

O

Of every Hogshead of oil, three pence.

every Runlet ditto, on one Car, one penny, not exceeding the price of a Car load.

every Barrel of Oil, two pence.

every Car load of Oysters, two pence.

every Horse load ditto, one penny.

every Car load of Onions, three pence.

every Horse load ditto, two pence.

Of every Flasket ditto, on one Car, one halfpenny, not exceeding the price of a Car load.

P

Of every Sack of Potatoes, one halfpenny.
 every Car load of Pewter, three pence.
 every Horse load ditto, two pence.
 every Car load of Paper, three pence.
 every Horse load ditto, two pence.
 every Car load of Plants, one halfpenny.
 every Barrel of White Peas, one farthing.
 every Barrel of Pitch or Tar, two pence.

R

Of every Car load of White Rods, two pence.
 every ditto Green, one penny.
 every Barrel of Rape-seed, three halfpence.
 every Horse load of Rabbits, two pence.
 every Dozen ditto, on one Car, one penny, not exceeding the price of a Car load.
 every Car load of Rushes, two pence.

S

Of every Barrel of Salt, two pence.
 every Hundred Weight ditto, three farthings.
 every Car load of Sheep Skins, three pence.
 every Horse load ditto, two pence.
 every Dozen ditto, on one Car, one penny, not exceeding the price of a Car load.
 every Horse Skin, one farthing
 every Car load of Lamb Skins, three pence.
 every Horse load ditto, two pence.
 every Dozen ditto, on one Car, one farthing, not exceeding the price of a Car load.
 every Car load of Slink Lamb Skins, or Kid, two pence.
 every Horse load ditto, one penny.
 every Back load ditto, one halfpenny.
 every Dozen ditto, on one Car, one farthing, not exceeding the price of a Car load.
 every Car load of Calf Skins, three pence.
 every Horse load ditto, two pence.
 every Dozen ditto, on one Car, one penny, not exceeding the price of a Car load.
 every load of Barrel Staves, one penny.
 every load of Straw, one farthing.
 every Car load of Rabbit Skins, three pence.
 every Horse load ditto, two pence.
 every Man's Back load ditto, one penny.

Of every Dozen ditto, on one Car, one halfpenny, not exceeding the price of a Car load.
 every Sheep, one farthing.
 every Dozen of Stockings, on one Car, one penny, not exceeding the price of a Car load.
 every load of Silver Mine, three pence.
 every load of Flag Stones, one penny.
 every load of Slates, one penny.
 every load of Marble Stones, two pence.
 every load of Grinding Stones, one penny.
 every Car load of Bazils or Pelts, three pence.
 every Horse load ditto, two pence.
 every Dozen ditto, on one Car, one farthing, not exceeding the price of a Car load.

T

Of every Hogshead of Tobacco, three pence.
 every Horse load or Back ditto, two pence.
 every single Roll ditto, on one Car, one farthing, not exceeding the price of a Car load.
 every Hogshead of Tallow, three pence.
 every Barrel ditto, two pence.
 every Cake ditto, on one Car, one halfpenny, not exceeding the price of a Car load.
 every load of made Timber Ware, two pence.
 every load of Timber, one penny.
 every load of Tazels, two pence.
 every Back load ditto, one penny.
 every Cart load of Turnips, Parsnips, and Carrots, one halfpenny.
 every Car load of Trees, two pence.
 every Horse load ditto, one penny.
 every Back load ditto, one halfpenny.
 every Timber Stutch or Chest, one penny.
 every load of Tin, one penny.

W

Of every Hogshead of Wine, three pence.
 every Horse load ditto, two pence.
 every single Hamper ditto, two pence.
 every Dozen ditto, on one Car, one penny, not exceeding the price of a Car load.
 every Runlet of Wine, one penny.
 every Pack of Wool, three pence.
 every Horse load ditto, two pence.
 every Pocket ditto, on one Car, one penny, not exceeding the price of a Car load.
 every Car load of Wadd, three pence.

Of

Of every Hundred of Bees' Wax, three pence
 every Car load of Worsted, three pence.
 every Horse load ditto, two pence.
 every Hundred of Yarn, one penny.

N. B. All Goods coming in for private Use, to be exempted from Custom.

Examined by

ALLEN AND GREEN, Town-Clsks.

—ooo—

The Docket of Toll of every single Barrel of Grain, at the Gates belonging to the City of Dublin.

WHEAT,	OATS,	BERE,	MALT,	MEAL,
lb. oz.	lb. oz.	lb. oz.	lb. oz.	lb. oz.
3 10	2 4	2 12	2 1	2 9
BARLEY,	FLOUR.	RYE, or MESLIN,		CRUSH,
lb. oz.	lb. oz.	lb.	oz.	lb. oz.
2 12	2 7	3	9	3 12

A Docket of the Petty Customs of the Markets.

Of every Car load of Fruit, two pence.
 every High load of ditto, one penny.
 every Flasket of ditto, one halfpenny.
 every Butter Standing, per Week, two pence.
 every Root Standing, per Week, two pence.
 every Standing for Fowl, per Week, two pence.
 every Standing in Corn-Market, per Day, one penny.
 every Car load of Hay and Straw, at Smithfield, one half-penny.

AN INDEX

TO THE PRINCIPAL MATTERS.

—000—

A	Page.
Action against Treasurer or Chamberlain, ...	67
Amount (computed) of extortions at fairs in Ireland, ...	36
B	
Ballinasloe—fair of, 38, 39, 40, 41, 43	43
Barley—measure of toll on, 33	33
Beams and scales, charges on potatoes, way for, ...	20
Belfast, 5, 6, 63	63
Bere—measure of toll on, 33	33
Birr—fair of, 37	37
Bishop-street, part of it in the County of Dublin, ...	15
Bounds—ancient of City walls, 27	27
Britain-street—part of it in County of Dublin, ...	15
Butter market—impositions in, 20	20
Butter—last act, 20, 66	66
C	
Canals—corn carried by, 33	33
Canal, Grand, 25, 27, 29	29
——— Royal, 25, 26, 27, 29, 34	34
Carriers not liable to toll, 24	24
Cars and Carts, weighing in Smithfield, ...	19
——— Money paid for it may be recovered back, 19, 20	20
Carriages—private, 23	23
Cattle, 6, 8, 9, 25, 36, 37, 39, 40	40
——— mountain, 8	8
Certificate of Lord Mayor, under 32, G.III. c. 29, form of, 37	37
Charters not to be found warranting toll, 8, 93	93
——— of Edward, 12	12
——— of John, 11, 12	12
——— granted to the City of Dublin, 14, 15	15
Clarke, Edward, punished for extortion, ...	71
Clergymen exempt from toll, 7, 82	82
Coastways, corn, 29, 30	30
Cork, city of, 5, 63	63
Corn going out, 23	23
——— sold by sample, exempt from toll, ...	29, 30
——— coastways, 25, 30	30

	Page:
Corn by canals,	30
Cotton exempt from toll,	27, 28
— yarn exempt,	27
Cotton, cloth exempt,	27, 65
Coloured cotton goods,	28
County Dublin, toll-houses in,	35
Custom or prescription, none in Dublin or Ireland,	51
— must be as far back as the reign of Richard I.	52
Customs of the gates,	75, 100
— Docket of,	100

D

Derry, bridge of,	28
Distinction, attempted between toll and custom, ...	22
Distinction between County and City,	16, 17
Docket of Dublin, tolls and customs,	100
— of Naas,	42
Donnybrook fair Green, within the City,	16, 44
Drogheda,	28
— Beams and scales to be in,	63
— Toll thorough illegally charged,	28
Dues—market cannot be raised,	21
Dundaik, beams and scales to be in,	63

E

Eggs—charges for toll on,	49
England, most fairs without toll in,	36, 78
Exporting goods exempt,	9

F

Factors in Fowl, &c. markets,	20
Fairs, country, ... 35, 36, 37, 38, 39, 40, 41, 44	44
— Donnybrook,	16, 17, 37, 44
Flax-seed—exempt from toll,	7
Fieldstown—fair of,	37
Force—resisting by,	53
Forestallers,	20
Foreign grain first charged,	23
Fowl—dead,	17
Freemen,	11, 12, 13, 14
Fruit market—illegal charges in,	22
Furze exempt from toll,	27

G

Grain—foreign,	72
Grant—tolls can only be taken by prescription or,	51
— Corporation of Dublin, must produce an express grant,	16, 51

H

Page.

Hackles exempt,	...	...	...	41
Hay—charges for weighing,	...	...	...	19
— market,	...	...	...	19, 20
Hemp or Hempseed—no toll on,	...	...	...	27, 40 51
Horses sold in fair or market,	...	...	...	46, 47, 48, 57, 58
Harris's Survey of Dublin,	...	...	...	27
Highway—toll not to be taken in the,	...	...	...	56

I

Illegal charges—list of in fruit market,	...	22
Illegal swearing in fairs,	...	6, 7, 38, 39, 65, 66

K

Kelp exempt,	27, 41
--------------	-----	-----	--------

L

List of illegal charges in the fruit market,	...	22
Linen exempt,	...	7, 65
Looms not tollable,	...	65

M

Mulagherew—fair of,	...	...	37
Market—the King cannot grant toll for goods not brought to market,	...	...	45
Market days,	...	...	32, 70
Markets—docket posted in,	...	...	18
— Cattle,	...	...	33
— Corn,	...	...	33
— Egg,	...	...	20
— Fowl,	...	...	20
— Fruit,	...	...	33
— Hay,	...	...	19, 20, 33
— Kevin-street,	...	...	9
— Potato,	...	...	33
— Smithfield,	...	...	25, 33
— Spitalfields,	...	...	7
— Straw,	...	...	19, 20, 33
Markets—stalls in,	...	...	22, 80
— standings in,	...	...	22, 80
Meal—charges on,	...	...	49
Mountjoy-square,	...	...	26
Murder—toll-men liable to charges of,	...	...	54

N

Naaz—extortions abolished in,	...	...	5, 42
Newgate—toll-men committed to,	...	...	52